

**AGENDA  
CITY COUNCIL MEETING  
June 21, 2016**

1. [Approval of Minutes – June 7, 2016](#)

2. [Approval of Claims](#)

The City Council will be hearing public comments on the following agenda items: 3,6,7,8,11 & 12

Anyone desiring to view the Open Meetings Act may do so. The document is available for public inspection and is located on the south wall of the City Council Chambers.

The City Council may go into closed session to discuss certain agenda items to protect the public interest or to prevent the needless injury to the reputation of an individual and if such individual has not requested a public hearing.

3. [Action on a request to approve placing “Little Free Library” boxes on public property for public exchange of books — Kim Dunklau, Our Savior Lutheran Church/Little Free Library Committee](#)

4. Reappointment of Darrell Miller to the LB840 Citizens Sales Tax Advisory Committee

5. Appointment of Megan Weaver to replace Kari Wren on the LB840 Citizens Sales Tax Advisory Committee

6. [Public Hearing: To consider the Planning Commission’s recommendation in regard to the “Tuffern Blue Estates Subdivision Final Plat” — Todd Luedeke, Applicant \(Advertised Time: 5:30 p.m.\)](#)

7. [Resolution 2016-48: Approving the “Tuffern Blue Estates Subdivision Final Plat”](#)

**Background:** The attached plat has been approved by the Planning Commission.

**Recommendation:** The recommendation of the Planning Commission is to approve the plat.

8. [Action on “Tuffern Blue Estates Subdivision Agreement”](#)

**Background:** Todd and Cheryl Luedeke are subdividing land, located west of Muhs Acres, into five lots with a shared private drive serving those lots. They plan to connect to the city water system and use septic systems on those five residential lots. Attached is a draft Subdivision Agreement that will also need County approval.

**Recommendation:** The recommendation of Lowell Johnson, City Administrator, is to approve the Subdivision Agreement.

9. [Ordinance 2016-9: Amending the Wayne Municipal Code, Chapter 14 Animals, Article II Dogs, Section 14-49 Running at Large \(Third and Final Reading\)](#)

10. [Ordinance 2016-10: Amending the Wayne Municipal Code, Chapter 82, Article IV, Section 82-169 Hookup Fee \(Third and Final Reading\)](#)
11. [Ordinance 2016-12: Amending Wayne Municipal Code, Section 78-134 relating to Parking Time Limits of 15 Minutes, 30 Minutes and One Hour \(3 one-hour parking stalls – The Undercut – Wendy Ping\) – Second Reading](#)

**Background:** Our Street Department removed the ADA parking signs and painted over the blue designation on the curb. We will get 3 additional public parking stalls by doing this and by shifting all of the diagonal lines to the east.

The ordinance, as written, is for 3 one-hour parking stalls. Should you decide to change it or amend it, you can do so at this reading.

12. [Discussion in regard to purchasing a portion of the elevator property from Jason Schulz](#)

**Background:** We have negotiated a verbal agreement with Jason to allow alleys through the middle of the property. Terry is preparing a plat, and I want to make sure you are ok with our proposal. I would request closed session for this discussion.

13. [Action to Approve Chapter XI - Business Regulations of the new Municipal Code Update](#)
14. [Adjourn](#)

APPROVED AS TO FORM AND CONTENT:

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Mayor

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City Administrator

**MINUTES  
CITY COUNCIL MEETING  
June 7, 2016**

The Wayne City Council met in regular session at City Hall on Tuesday, June 7, 2016, at 5:30 o'clock P.M. Mayor Ken Chamberlain called the meeting to order with the following in attendance: Councilmembers Cale Giese, Rod Greve, Jon Haase, Jennifer Sievers, Nick Muir, Jason Karsky, Matt Eischeid and Jill Brodersen; City Attorney Amy Miller; City Administrator Lowell Johnson; and City Clerk Betty McGuire.

Notice of the convening meeting was given in advance by advertising in the Wayne Herald on May 19, 2016, and a copy of the meeting notice and agenda were simultaneously given to the Mayor and all members of the City Council. All proceedings hereafter shown were taken while the Council convened in open session.

Councilmember Haase made a motion, which was seconded by Councilmember Sievers, whereas, the Clerk has prepared copies of the Minutes of the meeting of May 17, 2016, and that each Councilmember has had an opportunity to read and study the same, and that the reading of the Minutes be waived and declared approved. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried and the Minutes approved.

The following claims were presented to Council for their approval:

**CORRECTIONS TO PREVIOUS CLAIMS LISTS:** DELETE UNCASHED CHECKS FROM LAST YEAR REISSUED - 588.90

**VARIOUS FUNDS:** ADVANCED CONSULTING, SE, 709.50; FIREMAN, RE, 172.69; AMAZON.COM, SU, 495.48; AMERICAN PUBLIC POWER ASSOCIATION, FE, 1399.25; AMERICAN RED CROSS, RE, 10.00; AMERITAS, SE, 2348.40; ANDREW HURNER, RE, 50.00; APPEARA, SE, 170.80; AS CENTRAL SERVICES, SE, 448.00; BACKFLOW APPARATUS, SU, 1300.00; CITY EMPLOYEE, RE, 45.85; BLACK HILLS UTILITY HOLDINGS, SE, 419.91; BLUE CROSS BLUE SHIELD, SE, 34676.53; BOARDERS INN & SUITES, SE, 1526.00; BOMGAARS, SU, 43.08; FIREMAN, RE, 210.00; CITY EMPLOYEE, RE, 315.93; AMERICAN BROADBAND, SE, 990.00; BSN SPORTS, SU, 12015.00; C. H. GUERNSEY & COMPANY, SE, 6813.36; CENTURYLINK, SE, 414.15; CITY OF WAYNE, RE, 100.00; CITY OF WAYNE, RE, 75.00; CITY OF WAYNE, RE, 150.00; CITY OF WAYNE, PY, 85211.39; CITY OF WAYNE, RE, 110.00; CITY OF WAYNE, RE, 325.00; CITY OF WAYNE, RE, 3908.59; FIREMAN, RE, 203.03; FIREMAN, RE, 202.71; COMMUNITY HEALTH, RE, 4.00; CITY EMPLOYEE, RE, 3.99; DANKO EMERGENCY

EQUIPMENT, SU, 224.00; DCL AMERICA INC., SU, 300.00; DE LAGE LANDEN FINANCIAL, SE, 77.00; DEARBORN NATIONAL LIFE, SE, 127.28; DGR & ASSOCIATES, SE, 3673.00; CITY EMPLOYEE, RE, 151.98; FIREMAN, RE, 182.21; EAKES OFFICE PLUS, SE, 1035.79; CITY EMPLOYEE, RE, 45.09; ED. M FELD EQUIPMENT CO, SU, 340.00; ELECTRICAL ENGINEERING & EQUIPMENT, SU, 2270.51; FIRST CONCORD GROUP, SE, 2972.98; FLOOR MAINTENANCE, SU, 175.54; GALE GROUP, SU, 123.45; GAMBLE, BRIAN, RE, 500.00; GERHOLD CONCRETE, SU, 2338.84; GROSSENBURG IMPLEMENT, SU, 194.84; H.K. SCHOLZ CO, SE, 8360.77; HD SUPPLY WATERWORKS, SU, 4059.48; HOMETOWN LEASING, SE, 425.86; HOTEL GRAND CONFERENCE CENTER, SE, 89.00; ICMA, SE, 7034.32; IRS, TX, 28550.45; JEO CONSULTING GROUP, SE, 1917.50; FIREMAN, RE, 200.80; CITY EMPLOYEE, RE, 281.34; KELLY SUPPLY CO, SU, 36.68; FIREMAN, RE, 184.44; KRIZ-DAVIS, SU, 2073.68; CITY EMPLOYEE, RE, 8.41; MIDSTATES ERECTORS, SU, 1418.90; FIREMAN, RE, 449.44; NNEDD, SE, 315.00; FIREMAN, RE, 191.58; CITY EMPLOYEE, RE, 1735.98; NCMA-CITY OF NORFOLK, FE, 200.00; NE DEPT OF REVENUE, TX, 3773.86; NE PUBLIC HEALTH, SE, 251.00; FIREMAN, RE, 210.08; NNPPD, SE, 17475.60; NOVA HEALTH EQUIPMENT, SE, 462.52; NWOD, FE, 15.00; OLIVER PACKAGING, SU, 268.02; OLSSON ASSOCIATES, SE, 16369.94; ONE CALL CONCEPTS, SE, 120.84; CITY EMPLOYEE, RE, 60.98; PENRO CONSTRUCTION CO, SE, 8752.45; RECREATION SUPPLY CO, SU, 2453.87; CITY EMPLOYEE, RE, 636.04; FIREMAN, RE, 196.15; STADIUM SPORTING GOODS, SU, 284.00; STAPLES, SU, 304.88; STATE NEBRASKA BANK, RE, 203.90; TAMARA WORNER, SU, 210.07; FIREMAN, RE, 183.42; TYLER TECHNOLOGIES, SE, 2581.36; ULINE, SU, 83.04; UNITED WAY, RE, 5.00; VAN DIEST SUPPLY, SU, 416.00; VERIZON, SE, 99.76; VERMEER EQUIPMENT OF NEBRASKA, SU, 34.75; VIAERO, SE, 246.89; WATER ENVIRONMENT FEDERATION, FE, 141.00; WAYNE FIREWORKS COMMITTEE, RE, 2000.00; WESCO, SU, 918.06; WISNER WEST, SU, 178.97; AMERICAN BROADBAND, SE, 1590.93; AMY MILLER, SE, 5416.67; BSN SPORTS, SU, 738.00; CITY OF WAYNE, RE, 70.00; CERTIFIED TESTING SERVICES, SE, 2878.50; CHARTWELLS, SE, 5410.50; CITY OF WAYNE, RE, 200.00; CITY OF WAYNE, RE, 2381.06; CLAUSSEN, HEATHER, SE, 455.00; COPY WRITE PUBLISHING, SE, 228.81; CURTIS REESE, SE, 455.00; CITY EMPLOYEE, RE, 162.00; EASYPERMIT POSTAGE, SU, 790.74; CITY EMPLOYEE, RE, 354.43; FASTENAL, SU, 198.44; FRANK SHEDA JR., SE, 240.00; FREDRICKSON OIL CO, SE, 69.00; GILL HAULING, SE, 170.50; GIS WORKSHOP, FE, 4200.00; GROSSENBURG IMPLEMENT, SU, 219.45; HEARTLAND FIRE PROTECTION, SE, 432.25; HEIKES AUTOMOTIVE, SE, 96.30; ISLAND SPRINKLER SUPPLY, SU, 127.99; JEO CONSULTING GROUP, SE, 9378.25; JUSTIN DAVIS, RE, 30.00; K & S DOOR CO, SE, 209.00; CITY EMPLOYEE, RE, 202.19; NE SAFETY COUNCIL, SE, 38.55; PAC N SAVE, SU, 196.35; PITNEY BOWES, SE, 253.85; RESCO, SU, 801.53; ROBERT ENSZ, RE, 30.00; SHOPKO, SU, 93.63; TRUCK EQUIPMENT, SU, 85685.00; US BANK, SU, 5032.94; WAED, SE, 7216.66; WAYNE COUNTY CLERK, SE, 32.00; WAYNE HERALD, SE, 1253.23; WAYNE VETERINARY CLINIC, SE, 210.00; WISNER WEST, SU, 141.96

Councilmember Sievers made a motion, which was seconded by Councilmember Haase, to approve the claims. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Mayor Chamberlain stated the City Council would hear public comments on the following agenda items: 3, 4, 9, 10, 14 and 19.

Mayor Chamberlain advised the public that a copy of the Open Meetings Act was located on the south wall of the Council Chambers and was available for public inspection. In addition, he advised the public that the Council may go into closed session to discuss certain agenda items to protect the public interest or to prevent the needless injury to the reputation of an individual and if such individual has not requested a public hearing.

Joe Jetensky, President of American Broadband, and Pam Adams, Marketing Manager/Account Executive with American Broadband, updated the Council on ABB's past, present and future offerings, improvements and challenges.

Ken Jorgensen, Owner of The Jug Store, LLC, d/b/a "The Jug Store," along with his manager, Kiley Koch, were present requesting Council consideration to approving their Application for Addition to Liquor License. They are requesting to add the area to the south of the building that would be for sand volleyball, sand basketball, etc. There will also be a bar outside, with storage for the outdoor equipment. The dimensions would be 315'x165'x375'x345' with a 6' chain link fence.

Councilmember Sievers made a motion, which was seconded by Councilmember Greve, approving the Application for Addition to Liquor License – The Jug Store, LLC, d/b/a "The Jug Store," at 1005 E. 7<sup>th</sup> Street with the new description being: The entire irregular-shaped, single-story building, approximately 149'x106' and includes the outdoor sidewalk café on the north side of the building, which is approximately 13'x59' which has a 36" tall wrought iron fence, **and includes an additional outdoor area on the south side of the building – dimensions being 315'x165'x375'x345' with a 6' chain link fence.** Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Councilmember Eischeid introduced Ordinance No. 2016-7, and moved for approval of the third and final reading thereof; Councilmember Giese seconded.

ORDINANCE NO. 2016-7

AN ORDINANCE ANNEXING CERTAIN REAL ESTATE TO THE CITY OF WAYNE AND EXTENDING THE CORPORATE LIMITS IN THE NORTHEAST QUADRANT OF THE CITY OF WAYNE TO INCLUDE SAID REAL ESTATE.

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Councilmember Eischeid introduced Ordinance 2016-8, and moved for approval of the third and final reading thereof; Councilmember Greve seconded

ORDINANCE NO. 2016-8

AN ORDINANCE AMENDING CHAPTER 14 ANIMALS, ARTICLE II DOGS, SECTION 14-52 BARKING AND OFFENSIVE; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES OR SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE.

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Councilmember Eischeid introduced Ordinance 2016-9, and moved for approval of the second reading thereof; Councilmember Muir seconded.

ORDINANCE NO. 2016-9

AN ORDINANCE AMENDING CHAPTER 14 ANIMALS, ARTICLE II DOGS, SECTION 14-49 RUNNING AT LARGE; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES OR SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE.

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried. The third and final reading will take place at the next meeting.

Councilmember Eischeid introduced Ordinance 2016-10, and moved for approval of the second reading thereof; Councilmember Muir seconded

ORDINANCE NO. 2016-10

AN ORDINANCE AMENDING CHAPTER 82 UTILITIES, ARTICLE IV WATER SYSTEM, SECTION 82-169 HOOKUP FEE; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES OR SECTIONS; AND TO PROVIDE FOR AN

EFFECTIVE DATE.

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried. The third and final reading will take place at the next meeting.

Wendy Ping, owner of The Undercut located on East 3<sup>rd</sup> Street, was present to request Council consideration to putting in three one-hour parking stalls in front of her business. There are a couple of businesses whose employees park outside of her business all day. She is making this request for some of her less ambulatory customers. In addition to Ms. Ping, the business owners of Harder & Ankeny, as well as the Broken Antler, are in favor of putting in three one-hour parking stalls.

Ms. Ping stated she would be agreeable to one 30-minute parking stall and two one-hour parking stalls.

Councilmember Eischeid wanted to know if the handicapped parking stall that is on the corner is two stalls, and what the distance is between the alley and where the parking starts.

Councilmember Giese introduced Ordinance 2016-12, and moved for approval thereof; Councilmember Greve seconded.

#### ORDINANCE NO. 2016-12

AN ORDINANCE AMENDING WAYNE MUNICIPAL CODE, CHAPTER 78, ARTICLE III, SECTION 78-134 RELATING TO PARKING TIME LIMITS OF 15 MINUTES, 30 MINUTES AND ONE HOUR; LOCATION; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES OR SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE.

Councilmember Giese asked City staff to measure the distance from the curb to the alley with possibly increasing more stalls if removing the handicapped stall allows it, and to check on the sign inventory.

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

A request has been made to place what is called “Little Free Library” boxes on public property for a public exchange of books.

Lauran Lofgren, Library Director, stated that in visiting with other libraries around the State that are doing this, all of them have had good luck with the project.

Council had questions regarding liability, placement of the boxes, what the boxes would look like, maintenance, and whether or not collaborating with the Wayne Public Library is feasible.

Because no one from the Our Savior Lutheran Church/Little Free Library Committee could be present this evening, Councilmember Eischeid made a motion, which was seconded by Councilmember Sievers, to table the request of Our Savior Lutheran Church/Little Free Library Committee, to place “Little Free Library” boxes on public property for a public exchange of books until the next meeting. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Administrator Johnson stated the City received one bid on the “Community Activity Center Parking Lot Project.” That bid was from Progressive Property Inspections, LLC, for \$201,804.19. The engineer on the project, McLaury Engineering, Inc., has reviewed the bid and recommends awarding the contract to Progressive Property Inspections, LLC., for said amount.

Councilmember Sievers introduced Resolution 2016-45, awarding the contract on the “Community Activity Center Parking Lot Project” to Progressive Property Inspections, LLC, for \$201,804.19, and moved for its approval; Councilmember Giese seconded.

#### RESOLUTION NO. 2016-45

A RESOLUTION ACCEPTING BID AND AWARDING CONTRACT ON THE “COMMUNITY ACTIVITY CENTER PARKING LOT PROJECT.”

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Brian Kesting, Information Technology Specialist, stated the City gets all of its internet services through Wayne State College via the University of Nebraska at no charge. However, because of some abuses in other parts of the State, they have reworked their agreements and want to charge some of the entities for this service. The City of Wayne would be charged a monthly fee of \$68.94. His recommendation would be to approve the agreement.

Councilmember Eischeid introduced Resolution No. 2016-47 and moved for its approval; Councilmember Muir seconded.

#### RESOLUTION NO. 2016-47

A RESOLUTION APPROVING A MEMORANDUM OF AGREEMENT BETWEEN THE CITY OF WAYNE AND THE OFFICE OF THE CHIEF INFORMATION OFFICER, STATE OF NEBRASKA, D/B/A NETWORK NEBRASKA – EDUCATION AND NETWORK NEBRASKA – EDUCATION “PARTICIPANT” FOR THE AMOUNT OF \$68.94 PER MONTH.

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Pat Melena, representing the Rebuild Hank Committee, was present requesting Council consideration to cost-sharing (one-half) to have the grandstand, press box, equipment shed, and concession/restroom professionally stained. He received a proposal from Schinstock Painting, West Point, Nebraska, (who came highly recommended by Sand Creek Post & Beam) for \$8,750.00. It was noted that the staining (any wood that is in the direct sunlight) will need to be done every 5-6 years.

The previous understanding was that the City was going to cost-share in the stain, but have the summer part-time employees apply it.

Councilmember Eischeid made a motion, which was seconded by Councilmember Sievers, approving the request of the Rebuild Hank Committee to split the cost (one-half of \$8,750 or \$4,375) to have the Hank Overin Field Grandstand, press box, equipment shed, and concession/restroom professionally stained by Schinstock Painting, West Point, Nebraska.

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

JEO Consulting Group, Inc. presented Application for Payment No. 10 for the “2015 Wastewater Treatment Facility Improvement – Phases 3, 4, & 5 Project” for \$30,550.00 to Eriksen Construction, Co., Inc. They have found the work to date completed in accordance with the plans and specifications, and recommend approval of the same.

Councilmember Eischeid made a motion, which was seconded by Councilmember Giese, approving Application for Payment No. 10 for \$30,550.00 to Eriksen Construction, Co., Inc., for the “2015 Wastewater Treatment Facility Improvement – Phases 3, 4, & 5 Project.” Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

JEO Consulting Group, Inc., stated that the contractor, Eriksen Construction Co., Inc., is requesting a partial substantial completion, which is allowed by the contract documents. The blowers are installed and are currently being utilized to treat wastewater. The clarifier launders are installed and operating. In addition, some equipment has been delivered and is in storage as intended. Therefore, JEO is recommending a partial substantial completion be made using the date the request was made of May 18, 2016.

Councilmember Giese made a motion, which was seconded by Councilmember Eischeid, approving the Certificate of Substantial Completion for the “2015 Wastewater Treatment Facility Improvement – Phases 3, 4, & 5 Project.” Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

JEO Consulting Group, Inc., presented Application for Payment No. 11 for the “2016 Wayne Aquatic Center Project” for \$152,275.70 to Christiansen Construction Co., LLC. They have found the work to date completed in accordance with the plans and specifications and recommend approval of the same.

Councilmember Giese made a motion, which was seconded by Councilmember Eischeid, approving Application for Payment No. 11 for \$152,275.70 to Christiansen Construction Co., LLC, for the “2016 Wayne Aquatic Center Project.” Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Upon review of Chapter IX of the Municipal Code update, Councilmember Giese noted the following correction to Sec. 90-033 - “re” should be changed to “are.” In addition, he thought Sec. 91.055 Kept Clean might need to be referenced in Section 96. However, once explanations were provided by the City Attorney, and the fact that the reference to “trash” was in the Kept Clean section, he was satisfied with it being in Section 91.

Councilmember Giese made a motion, which was seconded by Councilmember Sievers, approving the updates to Municipal Code Update Chapter IX – General Regulations. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Councilmember Giese made a motion, which was seconded by Councilmember Muir, to enter into executive session to discuss the City Administrator’s Employment Agreement, to protect the needless injury to the reputation of the City Administrator, and to allow Attorney Miller and City Clerk McGuire to be in attendance. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried, and executive session began at 6:34 p.m.

Mayor Chamberlain again stated that the matter to be discussed in execution session relates to the City Administrator’s Employment Agreement.

Councilmember Giese made a motion, which was seconded by Councilmember Greve, to resume open session. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried, and open session resumed at 6:46 p.m.

Councilmember Giese introduced Resolution No. 2016-46 and moved for its approval;  
Councilmember Greve seconded.

RESOLUTION NO. 2016-46

A RESOLUTION TO ADOPT CITY ADMINISTRATOR'S EMPLOYMENT AGREEMENT.

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Councilmember Giese made a motion, which was seconded by Councilmember Sievers reappointing Amy Miller as the City Attorney, and to extend her current contract through December 31, 2016.

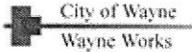
Extending the contract through December 31<sup>st</sup> puts the same on an annual basis (January-December).

Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried.

Councilmember Giese made a motion, which was seconded by Councilmember Sievers, to adjourn the meeting. Mayor Chamberlain stated the motion, and the result of roll call being all Yeas, the Mayor declared the motion carried and the meeting adjourned at 6:48 p.m.

## CLAIMS LISTING

June 21, 2016

**Vendor Name**

AMERICAN RED CROSS	PAYROLL DEDUCTION	10.00
AMERITAS LIFE INSURANCE	POLICE RETIREMENT	2,699.11
APPEARA	LINEN & MAT SERVICE	166.11
ARNIE'S FORD INC	CV JOINT REPAIR	839.64
B & B PAINTING, LLC	CAC WEIGHT ROOM WALL PAPER	170.00
BAKER & TAYLOR BOOKS	BOOKS	674.51
CITY EMPLOYEE	HEALTH REIMBURSEMENT	176.14
BOMGAARS	TOOL BOX/ADA BATHROOM REPAIRS ETC	1,994.80
BSN SPORTS, INC	SCOREBOOKS/SOFTBALLS	134.00
CARHART LUMBER COMPANY	BRESSLER/EAST PARK/ ETC	2,240.87
CDS Inspections & Beyond, Inc.	ASBESTOS INSPECTION	399.68
CITY EMPLOYEE	VISION REIMBURSEMENT	134.70
CHRISTIANSEN CONSTRUCTION	AQUATIC CENTER	152,275.70
CITY OF NORFOLK	SEWER LAB/INSPECTIONS FEES	228.62
CITY OF WAYNE	AUDITORIUM DEPOSIT REFUND	400.00
CITY OF WAYNE	BUILDING PERMIT DEPOSIT REFUNDS	200.00
CITY OF WAYNE	PARK REC REFUND	50.00
CITY OF WAYNE	SWIM TEAM REFUND	60.00
CITY OF WAYNE	UTILITY REFUNDS	1,691.05
COMMUNITY HEALTH	PAYROLL DEDUCTION	4.00
COPY WRITE PUBLISHING	FIRE DEPT PHOTO FRAMING	187.96
DANKO EMERGENCY EQUIPMENT	HANDLE LOCK/CLAMP/SLEDGE	138.42
DAVE'S DRY CLEANING	POLICE UNIFORM CLEANING	81.00
DEARBORN NATIONAL LIFE	DISABILITY/LIFE INSURANCE	2,101.66
DEMCO INC	STICKERS/BOOK PROTECTORS	374.41
ECHO GROUP INC JESCO	BULBS	765.50
ENGINEERED CONTROLS, INC	LABOR ON SUPPLY FAN	420.00
ERIKSEN CONSTRUCTION CO, INC	WWTP-BIOSOLIDS	30,550.00
FLOOR MAINTENANCE	JANITORIAL SUPPLIES	184.16
CITY EMPLOYEE	HEALTH REIMBURSEMENT	3,336.04
GERHOLD CONCRETE CO INC.	CONCRETE/GRID MARKERS	607.59
HAUFF MID-AMERICAN SPORTS	SOCCER TROPHIES	116.48
HEWLETT-PACKARD	COMPUTER	1,895.70
HIRERIGHT SOLUTIONS INC	RANDOM DRUG TESTING	20.00
ICMA RETIREMENT	RETIREMENT	8,601.36
INGRAM BOOK COMPANY	BOOKS	544.36
IRS	PAYROLL TAXES	27,042.55
K & S DOOR CO, INC.	REPAIR DOOR TRACK	91.20
KAY CONTRACTING, INC.	DEMO-CIS GRANT	6,500.00
KMPARTS.COM, INC.	CONTACTOR	376.89
KRIZ-DAVIS COMPANY	PADMOUNTS/ELECTRIC BOX/CONNECTORS	6,545.92
KTCH AM/FM RADIO	RADIO ADS	744.00
KYLE MILLER	ENERGY INCENTIVE	500.00
LINPECO	CAC POP-BANK DEBIT	45.00
LUTT OIL	GASOLINE/TIRES	4,484.17
MARCO INC	COPIER LEASE	126.36
MCLAURY ENGINEER, INC	4TH ST/NEBRASKA ST/CAC PARKING LOT	47,551.80
	BENSCOTER ADDITION/MISC ENGINEERING	

METERING & TECHNOLOGY SOLUTIONS	WATER METERS	2,907.50
MIDWEST LABORATORIES, INC	WASTE WATER ANALYSIS	470.50
MUNICIPAL SUPPLY INC	SAMPLING HYDRANT	4,521.35
N.E. NEB ECONOMIC DEV DIST	ANNUAL MEETING	15.00
NATIONAL PATENT ANALYTICAL SYSTEM	BREATHALYZER PARTS	20.22
CITY EMPLOYEE	HEALTH REIMBURSEMENT	184.10
NE DEPT OF REVENUE	PAYROLL TAXES	3,762.75
NE STATE HISTORICAL	SUBSCRIPTION RENEWAL	32.00
NOVA HEALTH EQUIPMENT CO	TREADMILL REPAIR	143.52
OTTE CONSTRUCTION COMPANY	H.O. CONCESSION STAND/TICKET BOOTH	15,945.00
PENGUIN RANDOM HOUSE LLC	CD'S	252.75
QUALITY 1 GRAPHICS	DECALS/SIGNS	207.00
RESCO	4 POINT JUNCTION	738.30
SPARKLING KLEAN	JANITORIAL SERVICE	3,030.57
STADIUM SPORTING GOODS	BASEBALL/SOFTBALL SHIRTS	824.00
STAPLES	OFFICE SUPPLIES	59.65
STATE NEBRASKA BANK & TRUST	ELECTRIC REVENUE SERIES 12	167,052.50
STATE NEBRASKA BANK & TRUST	SERIES 13 GO INT & PRINCIPAL	68,458.75
STATE NEBRASKA BANK & TRUST	HWY ALLOCATION 13B INT & PRINCIPAL	25,937.50
STATE NEBRASKA BANK & TRUST	HWY ALLOCATION 13 INT & PRINCIPAL	45,980.00
THE DIAMOND CENTER	PLAQUE ENGRAVING	88.40
THE JOURNAL OF LIGHT	SUBSCRIPTION RENEWAL	59.95
UNITED WAY	PAYROLL DEDUCTION	5.00
VAN DIEST SUPPLY	WEED KILLER	208.00
VIAERO	CELL PHONES	132.53
WAYNE AUTO PARTS	BELTS/BOLTS/GAUGES/CONNECTORS	270.47
WAYNE COUNTY COURT	BOND	150.00
WESCO DISTRIBUTION INC	BULBS/TAPE/JUNCTION BOX/PAINT	3,411.37
WESTERN AREA POWER ADMIN	ELECTRICITY	21,837.18
ZACH HEATING & COOLING	MOTOR REPAIR	179.02
ZEE MEDICAL SERVICE CO	FIRST AID SUPPLIES	124.01

CORRECTION TO CLAIMS LISTING 6-7-16  
CITY OF WAYNE - TENNIS REFUND \$25.00

## Lowell Johnson - Little Free Library

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**From:** Kim Dunklau <dunklau.k@gmail.com>  
**To:** Lowell Johnson <cityadmin@cityofwayne.org>  
**Date:** 4/24/2016 9:00 AM  
**Subject:** Little Free Library  
**Attachments:** IMG\_6857.JPG; IMG\_1308.JPG

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Sorry Lowell I forgot to get this sent to you.

Little Free Library is a nonprofit organization that supports the worldwide movement to offer free books housed in small containers to local communities. The organization is based in Hudson, Wisconsin and was founded in 2009 by Todd Boi. He mounted a wooden container designed to look like a schoolhouse to a post in his yard as a tribute to his mother, who was a book lover and schoolteacher. After word spread and the library was a great success he began the company Little Free Library.

Members of Our Savior have built two libraries so far and are hoping to build several more and place them through out the community of Wayne. The theme; Take a book- return a book encourages everyone to help himself or herself to a book. Take the book home, read it and share it with others. They are encouraged to return the book, or return another book in its place, offering Wayne residents an opportunity to exchange books or if citizens need to just have a book.

Our Savior is hopeful that we can get community service organizations, such as Lions, Kiwanis, Optimists, Boy and Girl scouts, 4-H clubs, etc. to join in with the success of these libraries. We need people to donate books, purchase new books, monitor the usage and keep the libraries filled with books. It is our hope as well that we can encourage more literacy through out this community. The libraries will contain books for all ages from young to old. Please check out [littlefreelibrary.org](http://littlefreelibrary.org) for more information on improving literacy in your neighborhood.

Our First little free library will be mounted at the Northeast corner of the Front porch with a bench by it as well. This library was made from recycled materials, including a stained glass window from the Old Redeemer building. We have spoken with the city and school librarians, as well as the Friends of the Library and have their support in putting these little free libraries in our community. Our second library is built and ready to put put up. A photo of the second library is included in this e-mail.

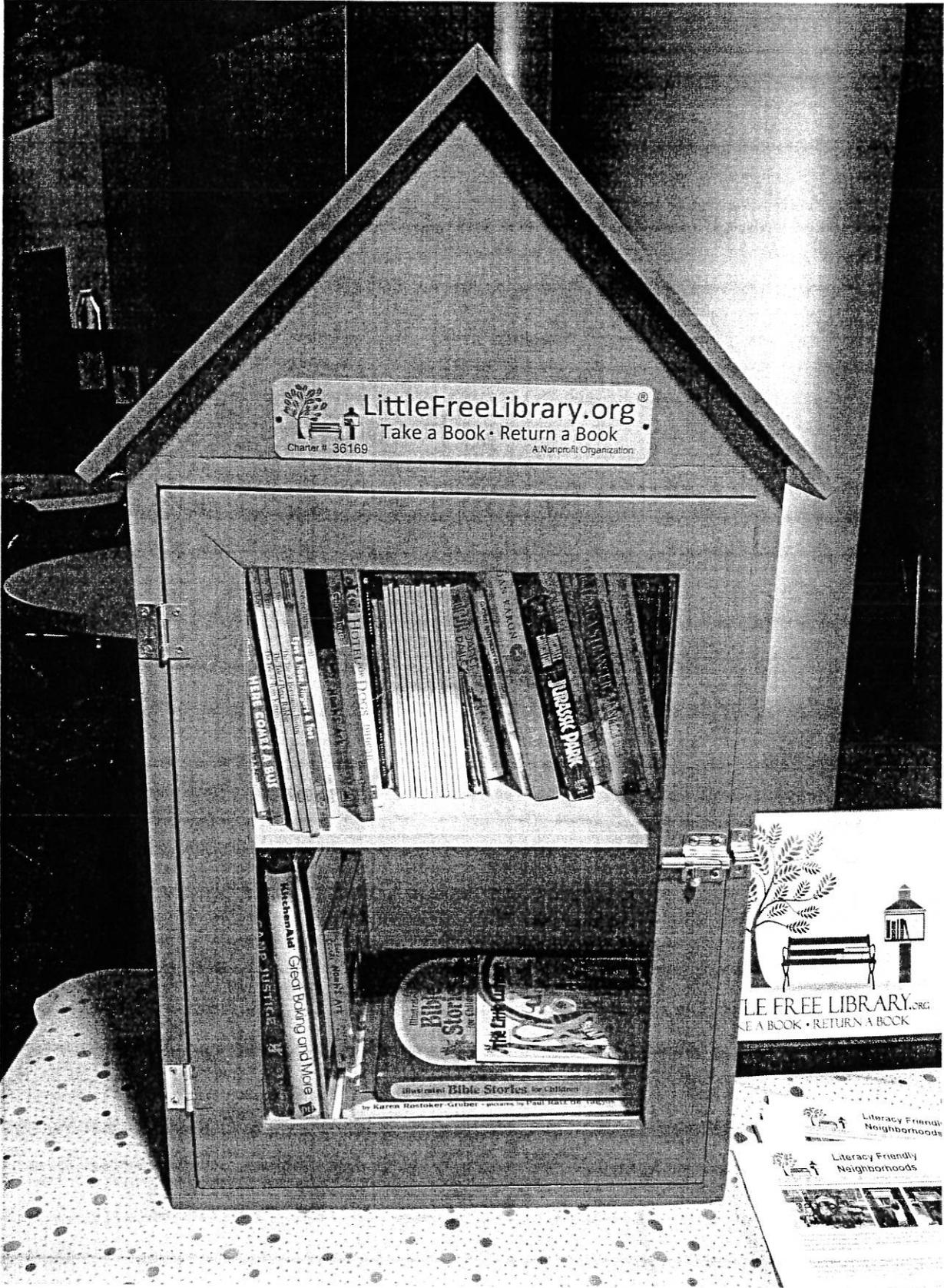
It is our hope to put the second library in or close to one of 3 parks in Wayne--Westridge, Bressler and the East Park. We are looking for others to be built this summer, so that we could put a library in or close to each of these parks. Eventually if the libraries take off, we would like to have one close to each park.

We are asking the city council to consider letting us place these little free libraries in each of the parks. We would like to place them by an existing bench, but would work with the city and care takers to find the best location and one most convenient for everyone involved. If the libraries can not be put on city property, we will work to find private property that is close to these locations.

Thank you for your consideration to help us get these little free libraries established in our community. If you would like any more information please contact Kim Dunklau at 402-369-1696.

Little Free Library Committee

Kathy Mohlfeld, Kim Dunklau, Teri Koenig, Jessie Piper, Matt Wachter, Carol McGure, Ray Novak and Dave Olson

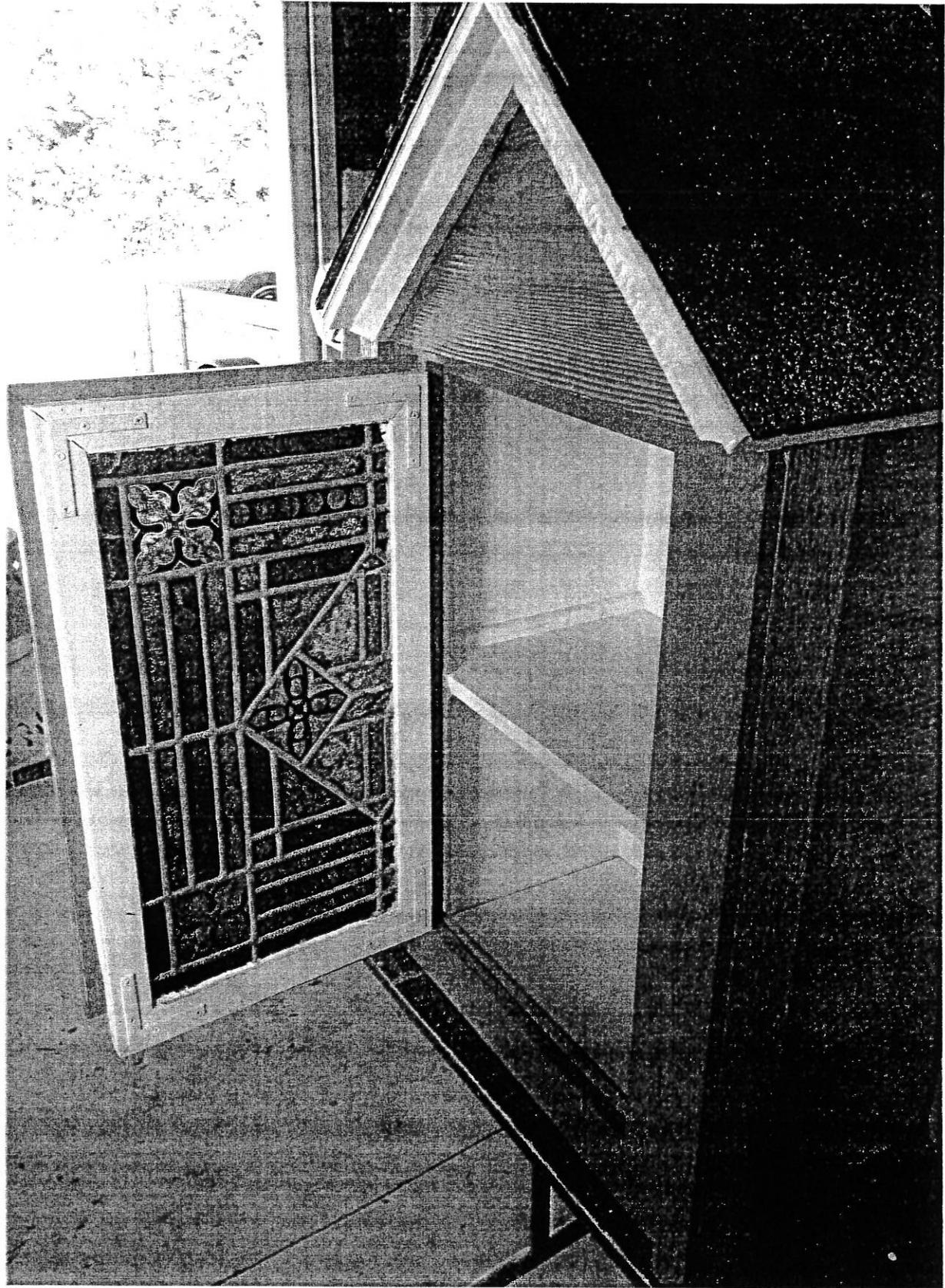


 LittleFreeLibrary.org®  
Take a Book • Return a Book  
Charter # 36169 A Nonprofit Organization

THE HOBBIT AND THE LORD OF THE RINGS  
JURASSIC PARK  
THE BIBLE STORIES FOR CHILDREN  
THE CAMP JUSTICE  
GREAT BOOKS AND MORE  
LITERACY FRIENDLY NEIGHBORHOODS

  
LITTLE FREE LIBRARY.ORG  
TAKE A BOOK • RETURN A BOOK

Literacy Friendly Neighborhoods  
LITERACY FRIENDLY NEIGHBORHOODS



**CITY OF WAYNE  
INTEROFFICE MEMORANDUM**

**DATE:** June 8, 2016

**TO:** Mayor Chamberlain  
Wayne City Council

**FROM:** Wayne Planning Commission  
Joel Hansen, Staff Liaison



At their meeting held on June 6, 2016 the Wayne Planning Commission made recommendations on the following public hearing; the result of those recommendations are as follows:

**Public Hearing: Final Plat for Tuffern Blue Estates Subdivision, Applicant – Todd Luedeke**

The Planning Commission took evidence and testimony from the public and thereafter reviewed the information and evidence presented. After deliberation and discussion, motion was made by Commissioner Carstens and seconded by Commissioner Sweetland to approve and forward a recommendation of approval to the City Council approving the Final Plat for Tuffern Blue Estates Subdivision, with the findings of fact being consistency with the Comprehensive Plan, the current and future land use maps, and staff's recommendation. Chair Melena stated the motion and second. All were in favor, motion carried to approve.

JJH:cb



**RESOLUTION NO. 2016-48**

**A RESOLUTION APPROVING THE FINAL PLAT FOR THE “TUFFERN BLUE ESTATES SUBDIVISION.”**

WHEREAS, the Planning Commission, upon review of the Final Plat of the “Tuffern Blue Estates Subdivision,” legally described as:

**Legal Description:**

A tract of land located in the Southwest ¼ of the Southwest ¼ of Section 1, T26N, R3E of the 6<sup>th</sup> P.M., Wayne County, Nebraska, more particularly described as follows:

Commencing at the Southwest corner of the Southwest ¼ of Section 1, T26N, R3E of the 6<sup>th</sup> P.M., Wayne County, Nebraska; thence N 01°34'33" W on an assumed bearing on the West line of said Southwest ¼, 337.00 feet to the Norwest corner of a tract of land surveyed by Terry L. Schulz, dated October 21, 2005; thence N 87°44'58" E and parallel to the South line of the Southwest ¼ of said Southwest ¼, 33.00 feet to the Point of Beginning; thence N 01°34'33" W on said West line, 1421.01 feet; thence N 88°25'27" E, 484.89 feet; thence S 01°34'33" E and parallel to said West line, 426.33 feet to a point on the North line of the Southwest ¼ of said Southwest ¼; thence N 87°49'46" E on said North line, 800.00 feet to the Northeast corner of the Southwest ¼ of said Southwest ¼; thence S 01°42'19" E on the East line of the Southwest ¼ of said Southwest ¼, 987.83 feet to the Northeast corner of said surveyed tract; thence S 87°44'58" W on the North line of said surveyed tract and parallel to said South line, 1287.16 feet to the Point of Beginning, containing 33.98 acres, more or less, hereafter to be known as Tuffern Blue Estates Subdivision, Wayne County, Nebraska,

on June 6, 2016, recommended approval thereof, based upon the following “Findings of Fact:”

- Staff’s recommendation; and
- Consistency with the current and future land use maps.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Wayne, Nebraska, that the Final Plat of the “Tuffern Blue Estates Subdivision” be approved subject to the recommendations of the Planning Commission and the foregoing “Findings of Fact.”

PASSED AND APPROVED this 21<sup>st</sup> day of June, 2016.

THE CITY OF WAYNE, NEBRASKA

By \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

DRAFT

DRAFT

**TUFFERN BLUE ESTATES  
SUBDIVISION AGREEMENT**

THIS AGREEMENT, made and entered into this \_\_\_\_ day of June, 2016, by and between Todd Luedeke and Cheryl Luedeke, husband and wife, (hereinafter referred to as "Subdivider"), the CITY OF WAYNE, a Municipal Corporation in the State of Nebraska (hereinafter referred to as "City"), and the COUNTY OF WAYNE, NEBRASKA, a political subdivision, (hereinafter referred to as "County")

WITNESSETH

WHEREAS, Subdivider is the owner of the land included within the proposed plat attached hereto as Exhibit "A", commonly known as TUFFERN BLUE ESTATES, (hereinafter referred to as the "Area to be Developed") is within the City's zoning and platting jurisdiction; and

WHEREAS, the Subdivider requires public improvements in the area to be developed; and

WHEREAS, the Subdivider desires to have the area to be developed within the City's zoning and platting jurisdiction; and

WHEREAS, the Subdivider wishes to connect the water main system within, the area to be developed to the water system of the City; and

WHEREAS, the parties wish to agree upon the manner and the extent to which any public funds may be expended in connection with public improvements to be constructed within the area to be developed and the extent to which the contemplated public improvements specially benefit property in the area to be developed and to what extent the cost of same may be specially assessed.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

For the purpose of this Agreement, the following words and phrases shall have the following meanings:

- A. The "cost" or "entire cost" of a type of public improvement shall be deemed to include all construction costs, engineering fees, attorneys' fees, testing expenses, publication costs; financing costs and miscellaneous costs. In this connection, financing costs shall include all financing fees and bond fees and financing to date of levy of special assessments. The date of any levy of special assessments shall mean within six (6) months after acceptance of the improvement by the City.
- B. "Property benefited" in the event of the creation of any improvement district, shall mean property within the Subdivider's subdivision (Exhibit "A") which constitutes building sites.

- C. "District" shall mean an improvement district formed by action of the Wayne City Council for the purpose of designing, financing and constructing public improvements for the subdivision.

### **SECTION I**

Subdivider and City and County covenant that public improvements installed by any extension or paving district created by the City or the County may be installed and provided as set forth herein.

- A. Water distribution mains, hydrants and valves constructed within easements or street rights-of way per plat (Exhibit "A") will be provided by Subdivider. If any utility extension District is to be created, it will be responsible for the design, financing and construction of said water distribution improvements. The entire cost of the water distribution improvements shall be specially assessed to the property benefited.
- B. Private wells for potable water are prohibited everywhere where within the boundaries of the Tuffern Blue Subdivision.
- C. Subdivider agrees to pay \$5,000 to the City of Wayne Water Utility to connect the Subdivision to the city water system, for the purpose of defraying 1/10<sup>th</sup> of the \$50,000 of "pioneering investment" contributed by the City of Wayne water utility to the Muhs Acres Water Extension District to defray the cost of the water transmission line across the undeveloped land between the east boundary of the Muhs Acres extension district and the connection at City Well #6 .
- D. Underground electrical service to each buildable lot within the subdivision shall be provided by the Subdivider.
- E. Street lighting for public or private streets dedicated per plat (Exhibit "A") shall be provided by the subdivider.
- F. Grading for the subdivision shall be completed by the Subdivider at the Subdivider's expense.
- G. In lieu of the dedication of green space area to the City, Subdivider agrees to pay the optional Park Fee for Tuffern Blue Estates rural subdivision calculated to be \$900, as required to satisfy the City park ordinance requirements for new residential subdivisions.

### **SECTION II**

Subdivider and City covenant and agree that any utility or paving district created by the City or County will:

- A. Abide by and incorporate into all of its construction contracts the provisions required by the regulations of the City or the County pertaining to construction of public improvements in subdivisions and testing procedures therefore except as otherwise provided in this agreement.

- B. Except as may otherwise be mutually agreed to by the City or County and the Subdivider, any of said publically created Water or Paving Districts' levy of special assessments shall be made in such a manner so as to assure that the entire burden of the levy is borne, on an equitable basis, by lots or parcels.
- C. The District's engineer shall provide the following information to the Subdivider and the City or County at least 20 days prior to the meeting of the City Council or County Commissioners held to propose the levy of special assessments:
- (1) A detailed schedule of the proposed special assessment and/or the amount of general obligation costs of any improvement or acquisition.
  - (2) A plat of the area to be assessed.
  - (3) A full and detailed statement of the entire cost of each type of improvement, which statement or statements shall separately show:
    - (a) The amount paid to the contractor.
    - (b) A special itemization of all other costs of the project, including but not limited to, all engineering fees, attorneys' fees, testing expenses, publication costs, financing costs, .including, but nor limited to, interest on all warrants to date of levy of special assessments, estimated fiscal agent's fees and bond fees.
    - (c) A special itemization of all costs of the District not itemized in (a) and (b) above.
- D. The City and County agree to not unreasonably delay acceptance of an improvement and that City or County shall levy special assessments within six (6) months after acceptance of the improvement.

### SECTION III

- A. No separate administrative entity nor joint venture, among the parties, is deemed created by virtue of the Subdivision Agreement.
- B. The administration of this Subdivision Agreement shall be through the offices of the undersigned officers for their respective entities.
- C. Binding Effect. This Subdivision Agreement shall be binding upon parties, their respective successors and assigns.

IN WITNESS WHEREOF, we the executing parties, by our respective duly authorized agents, hereby enter into this Agreement, effective on the day and year first above written.

ATTEST:

CITY OF WAYNE

\_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
MAYOR Date

ATTEST:

SUBDIVIDER

\_\_\_\_\_

\_\_\_\_\_  
TODD LUEDEKE Date

ATTEST:

SUBDIVIDER

\_\_\_\_\_

\_\_\_\_\_  
CHERYL LUEDEKE Date

ATTEST:

COUNTY OF WAYNE, NEBRASKA

\_\_\_\_\_

\_\_\_\_\_  
CHAIR Date

STATE OF NEBRASKA  
COUNTY OF WAYNE

On this \_\_\_\_ day of June, 2016, before me, a Notary Public, duly commissioned and qualified in and for said County, appeared Todd Luedeke, Subdivider, who is personally know by me to be the identical person whose name is affixed to the Subdivision Agreement, and acknowledged the execution thereof to be his voluntary act and deed.

Witness my hand and Notarial Seal the day and year last above written.

\_\_\_\_\_  
Notary Public

STATE OF NEBRASKA  
COUNTY OF WAYNE

On this \_\_\_\_ day of June, 2016, before me, a Notary Public, duly commissioned and qualified in and for said County, appeared Cheryl Luedeke, Subdivider, who is personally know by me to be the identical person whose name is affixed to the Subdivision Agreement, and acknowledged the execution thereof to be her voluntary act and deed.

Witness my hand and Notarial Seal the day and year last above written.

\_\_\_\_\_  
Notary Public

STATE OF NEBRASKA  
COUNTY OF WAYNE

On this \_\_\_\_ day of June, 2016, before me, a Notary Public, duly commissioned and qualified in and for said County, appeared Ken Chamberlain, Mayor of the City of Wayne, Nebraska, who is personally know by me to be the identical person whose name is affixed to the Subdivision Agreement, and acknowledged the execution thereof to be his voluntary act and deed as such officer of said corporation.

Witness my hand and Notarial Seal the day and year last above written.

\_\_\_\_\_  
Notary Public

STATE OF NEBRASKA  
COUNTY OF WAYNE

On this \_\_\_\_ day of \_\_\_\_\_, 2016, before me a Notary Public, duly commissioned and qualified in and for said County, appeared Randy Larson, Chair of the Wayne County Commissioners, County of Wayne, Nebraska, who is personally know by me to be the identical person whose name is affixed to the Subdivision Agreement, and acknowledged the execution thereof to be his voluntary act and deed as such officer of said corporation.

Witness my hand and Notarial Seal the day and year last above written.

\_\_\_\_\_  
Notary Public

**ORDINANCE NO. 2016-9**

**AN ORDINANCE AMENDING CHAPTER 14 ANIMALS, ARTICLE II DOGS, SECTION 14-49 RUNNING AT LARGE; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES OR SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE.**

BE IT ORDAINED by the Mayor and Council of the City of Wayne, Nebraska:

Section 1. That Chapter 14, Article II, Section 14-49 of the Wayne Municipal Code is hereby amended to read as follows:

**14-49 RUNNING AT LARGE.**

- (a) An animal shall be deemed to be at large when it is off the property of his/her owner and not under the control or restraint of a competent person. For purposes of this section, restraint shall mean controlled by leash, "at heel" beside a competent person and obedient to that person's commands, on or within a vehicle being driven or parked on the streets, or within the property limits of its owner or keeper.
- (b) The penalty for violating Subsection (a) above shall be \$25.00 for the first offense, \$100 for the second offense, and \$200 for the third or subsequent offense, and may be paid by waiver.**

Section 2. All ordinances or parts of ordinances in conflict herewith are hereby amended and repealed.

Section 3. This ordinance shall take effect and be in full force from and after its passage, approval, and publication or posting as required by law.

PASSED AND APPROVED this 21<sup>st</sup> day of June, 2016.

THE CITY OF WAYNE, NEBRASKA

By \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

**ORDINANCE NO. 2016-10**

**AN ORDINANCE AMENDING CHAPTER 82 UTILITIES, ARTICLE IV WATER SYSTEM, SECTION 82-169 HOOKUP FEE; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES OR SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE.**

BE IT ORDAINED by the Mayor and Council of the City of Wayne, Nebraska:

Section 1. That Chapter 82, Article IV, Section 82-169 of the Wayne Municipal Code is hereby amended to read as follows:

**82-169 HOOKUP FEE.**

- (a) The hookup fee for a residential user with the city water system and sewer system when service is not within a duly constituted water extension district, **or water system dedicated to the City of Wayne** shall be set by the council from time to time for each system, and each fee shall be paid in full before such connection is permitted.
- (b) The hookup fee for nonresidential users when the user to be served is not within a duly constituted water extension district, **or water system dedicated to the City of Wayne** shall be a fee set from time to time by the council for each system, and each fee shall be paid in full before such connection is permitted.

Section 2. All ordinances or parts of ordinances in conflict herewith are hereby amended and repealed.

Section 3. This ordinance shall take effect and be in full force from and after its passage, approval, and publication or posting as required by law.

PASSED AND APPROVED this 21<sup>st</sup> day of June, 2016.

THE CITY OF WAYNE, NEBRASKA

By \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

ORDINANCE NO. 2016-12

AN ORDINANCE AMENDING WAYNE MUNICIPAL CODE, CHAPTER 78, ARTICLE III, SECTION 78-134 RELATING TO PARKING TIME LIMITS OF 15 MINUTES, 30 MINUTES AND ONE HOUR; LOCATION; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES OR SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE.

BE IT ORDAINED by the Mayor and Council of the City of Wayne, Nebraska.

Section 1. That Chapter 78, Article III, Section 78-134 of the Municipal Code of Wayne, Nebraska, is hereby amended to read as follows:

**78-134 Parking time limits of 15 minutes, 30 minutes and one hour; location**

- (a) No person shall, at any time, park a vehicle between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, *for more than one hour* upon the following locations:
1. The west side of Pearl Street from 140 feet 8 inches south of the centerline of Third Street to 200 feet 8 inches south of the centerline of Third Street.
  2. The north side of East 2<sup>nd</sup> Street from 130 feet west of the centerline of Logan Street to 173 feet west of the centerline of Logan Street.
  3. **The south side of East 3<sup>rd</sup> Street from 70 east of the centerline of Main Street to 115 feet east of the centerline of Main Street.**
- (b) No person shall, at any time, park a vehicle between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, *for more than 15 minutes* upon the following locations:
1. The west side of Pearl Street from 40 feet north of the centerline of West 3<sup>rd</sup> Street to 129 feet north of the centerline of West 3<sup>rd</sup> Street.
- (c) Appropriate signs shall be placed to advise the public of these restricted parking regulations.

Section 2. The original Section and any other sections in conflict with this ordinance are hereby repealed.

Section 3. This ordinance shall take effect and be in full force from and after its passage, approval, and publication or posting, as required by law.

PASSED AND APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2016.

THE CITY OF WAYNE, NEBRASKA,

By \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

**TITLE XI: BUSINESS REGULATIONS**

Chapter

**110.OCCUPATION TAXES**

**111.SOLICITATIONS; HANDBILLS**

**112.SOLID WASTE COLLECTORS**

**113.FIREWORKS VENDORS**

**114.JUNKYARDS**

**115.AMUSEMENTS AND ENTERTAINMENTS**

**116.ALCOHOLIC BEVERAGES**

**117.MOVING BUILDINGS**



**CHAPTER 110: OCCUPATION TAXES**

Section

- 110.01 Telephone companies and telecommunications companies
- 110.02 Alcoholic liquors
- 110.03 Natural gas companies; franchise fee
- 110.04 Fireworks vendors
- 110.05 Certificates
- 110.06 Failure to pay
- 110.07 Utility franchise fees
- 110.08 Hotel occupation tax

**§ 110.01 TELEPHONE COMPANIES AND TELECOMMUNICATIONS COMPANIES.**

(A) *Revenue measure.* The provisions of this section are enacted solely as a revenue measure of the city.

(B) *Telephone companies and telecommunications companies.* An occupation tax is hereby levied and imposed on every person who engages in the business of providing local exchange telephone service, intrastate message toll telephone service and mobile telecommunications services for revenue in the city.

(C) *“Mobile telecommunications services” defined.* As used in this section, **MOBILE TELECOMMUNICATION SERVICES** shall mean a wireless communication service carried on between two mobile stations or receivers and land stations, and by mobile stations communicating among themselves, and includes:

(1) Both one-way and two-way wireless communication services;

(2) A mobile service which provides a regularly interacting group of base, mobile, portable and associated control and relay stations, whether on an individual, cooperative or multiple basis for private one-way or two-way land mobile radio communications by eligible users over designated areas of operation; and

(3) Any personal communication service.

**Wayne - Business Regulations**

(D) *Amount of tax; federal and state governments exempt.* An occupation tax is levied and imposed in the amount of 5% of the annual gross receipts of the telephone company or telecommunications company receiving local exchange telephone services and intrastate message toll service from subscribers within the corporate limits of the city and each customer receiving mobile telecommunications services that originates and terminates within the state to a customer with a place of primary use within the corporate limits of the city. No part or portion of the tax provided for the article shall be levied upon or assessed against telephone service or mobile telecommunications services to the United States Government, the government of the state, the city or any of their departments.

(E) *Monthly payments; due dates.* The payment of any occupation tax levied and imposed by the provisions of this section shall be made in monthly payments. Each monthly payment shall be due 15 days immediately following the termination of each month.

(F) *Statement to be filed.* Every person coming within the provisions of this section shall, on or before the fifteenth day of the month, immediately following the termination of each calendar year, file with the City Clerk, a full, complete and detailed statement of customers for the preceding three calendar months, omitting therefrom the appropriate exceptions and exemptions, if any. All statements shall be duly verified as true and correct and sworn to by the manager or managing officer of such person.

(G) *City's right to inspect.* The city shall have the right at any time and all times during business hours to inspect, through the Comptroller or some other office appointed by the City Council, the books and records of any person coming under the provisions of this section for the purpose of ascertaining the correctness of the required statement.

(H) *Failure to file statement; interest and penalty.* In the event any person coming under the provisions of this section shall refuse, fail or neglect to furnish or file the required statement at the time or times specified, the occupation tax of the preceding three calendar months shall draw interest at the rate of 1% per month after due and payable and, in addition thereto, a penalty of 5% for the failure to file.

(I) *Interest and penalty on delinquent payments.* All delinquent payments shall draw interest at the rate of 1% per month; and, if delinquent for six months or more, a penalty of 5% shall be added thereto in addition to the interest charge.

(J) *Collection of tax by civil action.* In case any person shall fail to make payment of the occupation tax as required by this section, the city shall have the right and may sue any such person or persons in any court of competent jurisdiction for the amount of the occupation tax due and payable and may recover judgment against such person for the amount due, together with interest and penalties, and may have execution thereon.

(K) *Disposition of receipts.* The occupation taxes paid under the provisions of this section shall be credited to the General Fund of the city.

(2002 Code, § 22-31) (Ord. 97-26, passed 11-25-1997; Ord. 2007-14, passed 11-20-2007; Ord. 2008-1, passed 2-5-2008)

**§ 110.02 ALCOHOLIC LIQUORS.**

For the purpose of raising revenue, an occupation tax is levied on the business regarding alcoholic liquors in the amount as authorized by Neb. RS § 53-132(4) of the State Liquor Control Act. Said occupation taxes for liquor license holders of the city will be two times the amount of the license fees established by the State Liquor Control Commission; provided, however, a non-profit corporation doing business under this section shall pay an occupation tax of \$150 for a Class C liquor license. A **NON-PROFIT CORPORATION** shall mean and be a non-profit corporation as defined by Neb. RS Ch. 53, as amended. For new licenses that are applied for and received on dates other than the renewal dates, the fees will be prorated on a quarterly basis as outlined by the State Liquor Control Commission.

(2002 Code, § 22-32) (Ord. 2005-28, passed 9-13-2005; Ord. 2011-17, passed 10-18-2011)

**§ 110.03 NATURAL GAS COMPANIES; FRANCHISE FEE.**

(A) *Imposed.*

(1) All natural gas companies selling, distributing or transporting natural gas in the city are required to collect from their customers located within the corporate limits of the city and pay a franchise fee in an amount based on the following fee schedule:

<i>Customer Class</i>	<i>Fee</i>
Commercial	\$5 a month per customer
Industrial	\$50 a month per customer
Residential	\$2.50 a month per customer

(2) The amount collected and paid by natural gas companies shall be in lieu of, and natural gas companies shall be exempted from, all other occupation, license, excise or right-of-way permit fees or taxes.

(3) Natural gas companies shall list the local franchise fee collected from customers as a separate item on bills for utility service issued to customers. If, at any time, any authority having proper jurisdiction prohibits such recovery, then natural gas companies will no longer be obligated to collect and pay the franchise fee in contemplated in this section.

(B) *When paid.* Payment of the franchise fee levied in this section shall be made to the city on a quarterly basis, using the calendar quarter year as a basis for computing the amount due. Each quarterly payment shall be due within 30 days after the end of each calendar quarter year. The franchise fee levied in this section shall be paid to the City Clerk, who shall furnish a proper receipt upon payment. The amount of payment shall be recorded and credited by the Clerk to the city’s General Fund.

## Wayne - Business Regulations

(C) *Delinquent payments.* Payments of the franchise fee as provided in this section which are made after the due date shall be subject to a penalty of 1% of the amount due for each month or fraction of a month past due. This amount shall be paid in addition to the fee which is due. Such statement shall be certified by an authorized representative.

(D) *Adjustments.* Each succeeding payment of the franchise fee levied pursuant to this section may include any adjustment which is shown on any previous report. Such adjustments may include uncollectible amounts or other amounts that cause an increase or decrease in the amount of the franchise fee paid in any previous quarterly period.

(E) *Records.* The city shall have the right, at any reasonable time, to require any natural gas company to produce all books and records necessary to verify any report submitted pursuant to this section.

(F) *Collection.* In case any natural gas company shall fail to make payment of the franchise fee provided for by this section, the city shall have the right to sue in any court of competent jurisdiction for the amount of such franchise fee due and payable under the terms and provisions of this section and may recover judgment against any such company for such amount so due, together with interest and penalties, and may have execution thereon.

(2002 Code, § 22-33) (Ord. 2000-6, passed 4-11-2000; Ord. 2007-11, passed 10-2-2007)

### **§ 110.04 FIREWORKS VENDORS.**

An occupation tax is levied annually on fireworks vendors in an amount that is set by the Council from time to time and a schedule of such tax is on file and available in the city offices.

(2002 Code, § 22-34)

### **§ 110.05 CERTIFICATES.**

The receipt issued after the payment of any occupation tax shall be the occupation tax certificate. The certificate shall specify the amount of the tax and the name of the person and business that paid the tax. The occupation tax certificate shall then be displayed in a prominent place, or carried in such a way as to be easily accessible, while business is being conducted.

(2002 Code, § 22-35)

### **§ 110.06 FAILURE TO PAY.**

If any person fails or neglects to pay the occupation taxes as provided in this chapter on the day it becomes due and payable, the city shall then proceed by civil suit to collect the amount due. All delinquent taxes shall bear interest at the rate of 1% per month until paid.

(2002 Code, § 22-36)

### **§ 110.07 UTILITY FRANCHISE FEES.**

(A) There is hereby assessed a franchise fee for the distribution of electricity for sale in an amount equal to 8.5% of the gross receipts derived from the business of distributing and selling electricity. Payment shall be made to the Clerk on a monthly basis.

(B) There is hereby assessed a franchise fee for the distribution of water for sale in an amount equal to 7% of the gross receipts derived from the business of distributing and selling water. Payment shall be made to the Clerk on a monthly basis.

(C) There is hereby assessed a franchise fee for the processing of sewer in an amount equal to 7% of the gross receipts derived from the business of processing sewer. Payment shall be made to the Clerk monthly.

(2002 Code, § 22-37) (Ord. 2007-10, passed 9-4-2007)

**§ 110.08 HOTEL OCCUPATION TAX.**

There is hereby assessed a monthly occupation tax equal to 5% of gross receipts from room rentals to any hotel or motel in the city.

(2002 Code, § 22-38) (Ord. 2009-20, passed 9-15-2009)



**CHAPTER 111: SOLICITATIONS; HANDBILLS**

Section

*General Provisions*

- 111.01 Soliciting alms
- 111.02 Peddlers and solicitors regulated

*Handbills*

- 111.15 Definition
- 111.16 Distribution limited; public property
- 111.17 Placing in vehicles
- 111.18 Posting property prohibited

- 111.99 Penalty

*Statutory reference:*

*Authority to regulate the posting of handbills and advertisements, see Neb. RS 16-210*

**GENERAL PROVISIONS**

~~§ 111.01 SOLICITING ALMS.~~

~~— It is unlawful for any person to solicit upon the public streets or in any private residences alms, gifts or contributions for private benefit unless the person so soliciting shall have first secured a permit from the City Clerk authorizing him or her to conduct such operations within the corporate limits.~~

~~(2002 Code, § 62-2) Penalty, see § 111.99~~

**§ 111.02 PEDDLERS AND SOLICITORS REGULATED.**

**Wayne - Business Regulations**

(A) Any non-resident person selling or attempting to sell at retail or take orders for any merchandise, magazines, books or any other item of value, or who sells or attempts to sell a service of any kind, within the corporate limits of the city shall, prior to making any attempt to sell any such item or service, register with the Police Department and obtain a vendor's permit. The Chief of Police or his or her designate shall require all applicants to provide photo identification, complete a registration form which authorizes the Police Department to make criminal history inquiries, and submit to photographs and/or fingerprints prior to receiving a vendor's permit. There is a non-refundable application fee that shall be paid in advance. The Chief of Police or his or her designate may deny a vendor's permit for cause if the applicant has a criminal record involving violence, fraud, theft or any felony conviction.

(B) Provisions of division (A) above shall extend to individuals doing door-to-door sales in any residential zone or door-to-door sales to any residential units in a non-residential zone. This regulation does not extend to individuals calling on retail merchants for the purpose of taking orders or selling merchandise for resale by such merchants and does not apply to recognized route vendors operating within the city.

(C) A **RECOGNIZED ROUTE VENDOR** is any company that regularly sells or attempts to sell at retail or take orders for any merchandise, magazines, books or any other item of value, or that regularly sells or attempts to sell a service of any kind, within the corporate limits of the city and shall be required to provide proof upon request of collecting and remitting state sales tax and local option sales tax, where applicable. There is a non-refundable annual application fee that shall be paid in advance.

(D) The vendor's permit provided for in this section shall be displayed by the bearer upon the request of any citizen of the city. The vendor's permit will be issued for a period of time, not to exceed 14 days, and may be renewed by the Police Department upon the receipt of another application fee. (2002 Code, § 62-41) (Ord. 97-11, passed 6-10-1997; Ord. 2001-8, passed 7-31-2001) Penalty, see § 111.99

**HANDBILLS****§ 111.15 DEFINITION.**

**HANDBILL** means any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, newspaper, paper, booklet or other printed matter of literature. (2002 Code, § 62-71)

**§ 111.16 DISTRIBUTION LIMITED; PUBLIC PROPERTY.**

(A) The practice of throwing, casting, distributing, scattering or depositing handbills upon public property in the city is declared to constitute a public nuisance, except as permitted in this subchapter. (2002 Code, § 62-72)

(B) No person shall deposit, place, throw, scatter or cast any handbill in or on any street, park, ground or other public place; however, the provisions of this division (B) shall not be deemed to prohibit the handing of any handbill to any person willing to accept it.

(2002 Code, § 62-73)

Penalty, see § 111.99

**§ 111.17 PLACING IN VEHICLES.**

No person shall distribute, deposit, place, throw, scatter or cast any handbill in or upon any automobile or other vehicle on the streets of the city; however, the provisions of this section shall not be deemed to prohibit, upon the approval of the Chief of Police, the placing on vehicles in the designated area between Logan Street on the east and the west side of Pearl Street on the west and between the north side of Fourth Street on the north and the south side of First Street on the south, handbills containing only public information about the Main Street repaving project or only private business promotion pertaining to those businesses that abut Main Street between Fourth Street and Clark Street, or prohibit the handing or any handbill to the owner or occupant of any automobile or other vehicle who will accept it, and this section shall not be deemed to prohibit the city from placing any tickets, traffic infractions or notices in or upon any automobile.

(2002 Code, § 62-74) (Ord. 2006-11, passed 5-9-2006) Penalty, see § 111.99

**§ 111.18 POSTING PROPERTY PROHIBITED.**

The owner or occupant of any property may place a sign in a conspicuous place near the entrance of the property indicating that no handbills are desired; and no person shall deposit, place, throw, scatter or cast any handbill on such property or solicit the right to make free delivery of any handbill to such property.

(2002 Code, § 62-75) Penalty, see § 111.99

**§ 111.99 PENALTY.**

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code.

(B) Any person failing to comply with the provisions of § 111.02 of this chapter shall be in violation and subject to the penalties provided under § 10.99 of this code.

(2002 Code, § 62-41)

(Ord. 97-11, passed 6-10-1997; Ord. 2001-8, passed 7-31-2001)



## CHAPTER 112: SOLID WASTE COLLECTORS

### Section

#### *Solid Waste Collectors*

112.01 License required

#### *Solid Waste Transfer Collectors*

112.15 License Class A collectors; fees

112.16 Revocation of license

112.17 Revocation hearings

112.99 Penalty

### **SOLID WASTE COLLECTORS**

#### **§ 112.01 LICENSE REQUIRED.**

(A) It is required that every person collecting, hauling or disposing, for hire, solid waste within the corporate limits of the city hold a license issued by the city. ~~There shall be two types of licenses as follows.~~

~~(1) Class A.~~ A license for hauling solid waste shall be issued to each applicant for a Class A license, who shall pay the currently required license fee, and shall submit satisfactory proof that the applicant has packer-type truck equipment to haul solid waste.

~~(2) Class B. A license will be issued on the payment of the currently required fee which will authorize the licensee to haul rubbish and trash, but shall not authorize the licensee to haul garbage. The applicant shall provide proof that he or she has equipment which will have some kind of cover to prevent the blowing out and away of rubbish trash.~~

(B) All licensees shall make their services available to all residents of the city or classes of residents of the city as applied for, including business places; provided, such persons shall pay the licensee the proper charges for the services rendered to them.

(C) If any licensee shall not maintain his or her equipment in proper operating condition or shall

fail to pay any fees as they become due, such license may be revoked by the city.

(D) Each license shall expire on June 30 of each year, and each licensee shall apply for renewal of his or her license by payment of the appropriate fee to the city prior to July 1.  
(2002 Code, § 22-71) Penalty, see § 112.99

### ***SOLID WASTE TRANSFER COLLECTORS***

#### **§ 112.15 LICENSE CLASS A COLLECTORS; FEES.**

All licensed Class A collectors shall pay to the city, not later than the fifteenth day of each month, those fees assessed pursuant to § 50.07 of this code for the preceding month. If any licensed Class A collector shall not pay such fees as they become due, such license may be suspended or revoked by the city.

(2002 Code, § 22-91)

#### **§ 112.16 REVOCATION OF LICENSE.**

Whenever the City Administrator has reason to believe that any person has violated any of the provisions of §§ 112.01 and 112.15 of this chapter, he or she shall have the power and may suspend or revoke the license for hauling solid waste of such person; provided that, before any license is suspended or revoked under this section, such licensee shall be furnished with a notice of the charges against him or her and, upon request of the licensee within ten days from such notice, a hearing shall be had before the Council.

(2002 Code, § 22-92)

#### **§ 112.17 REVOCATION HEARINGS.**

Hearings pursuant to § 112.16 of this chapter shall be held before the Council, with the Mayor serving as Hearing Officer. Hearings shall be conducted in an impartial manner by the Hearing Officer, who is empowered to administer oaths, rule upon offers of proof and objections and take such other action as may be necessary. He or she shall not be bound by formal rules of evidence as observed in courts of law, but shall exclude irrelevant, immaterial or unduly repetitious evidence. The burden of proof and proceeding with the evidence shall be on the city, and the city and the licensee may be represented by legal counsel or other representative or spokesperson. At the conclusion of the hearing, the Council shall announce its decision, which decision shall be made by a majority of the elected members. The Mayor shall have the right to vote when his or her vote shall be decisive and the Council is equally divided on its decision.

(2002 Code, § 22-93)

**§ 112.99 PENALTY.**

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code.

(B) Any person who violates any of the provisions of § 112.01 of this chapter shall be guilty of a misdemeanor and, upon conviction, shall be punished as provided in § 10.99 of this code. Each day of continued violation shall constitute a separate offense.

(2002 Code, § 22-71)



**CHAPTER 113: FIREWORKS VENDORS**

## Section

- 113.01 Definition
- 113.02 Regulations
- 113.03 Fireworks discharge

**§ 113.01 DEFINITION.**

***FIREWORKS*** means any composition or device designed for the purpose of producing a visible or audible effect by combustion, deflagration or detonation, and which meets the definition of common or special fireworks set forth by the United States Department of Transportation in 49 C.F.R. (2002 Code, § 22-111)

***Statutory reference:***

*Related definition, see Neb. RS 28-1241*

**§ 113.02 REGULATIONS.**

(A) It shall be unlawful for any person to sell fireworks of any description whatsoever, except permissible fireworks, which shall mean sparklers, Vesuvius fountains, spray fountains, torches, color fire cones, star and comet type color aerial shells without explosive charges for the purpose of making a noise, ladyfingers not to exceed seven-eighths inch in length or one-eighth inch in diameter, total pyrotechnic composition not to exceed one-half grain each in weight, or color wheels. Permissible fireworks may be sold at retail only between June 24 and July 5. The Council may permit fireworks of any description for purposes of public exhibitions or display.

(B) The sale of permissible fireworks shall be unlawful, except from a stand or building solely for the purpose of selling permissible fireworks, which stand or structure shall be located at a distance of at least ten feet from any other existing structure. It shall be unlawful for any person to possess for sale at retail or store or keep any fireworks of any description within the city; provided that, the possession and storage shall be permissible between June 24 and July 5.

(2002 Code, § 22-112) Penalty, see § 10.99

***Statutory reference:***

*Fireworks license, see Neb. RS 28-1246*

*Sale of permissible fireworks, see Neb. RS 28-1249*

**MOVE SECTION 113.03 TO SECTION 132.05****§ 113.03 FIREWORKS DISCHARGE.**

(A) It shall be unlawful for any person to discharge, fire, launch or throw any fireworks or any object, which is lighted to explode or which explodes upon contact with another object:

(1) From or onto any motor vehicle;

(2) Onto any street, highway or sidewalk;

(3) During any pyrotechnics display authorized by special permit under the ordinances of the municipality and when the special permit authorized the display to be held ~~at the Wayne City Park on~~ **city property**, no lawfully permitted fireworks shall be exploded in the said city ~~park~~ **property** during the time of said pyrotechnics display, except by personnel authorized by said special permit;

(4) At or near any persons;

(5) Into or upon any building;

(6) Into or at any group of persons; and/or

(7) At or upon the premises of another person.

(B) The discharge or exploding of fireworks within the municipality shall be permitted only on the following dates and during the following hours:

(1) June 25 through July 3: 8:00 a.m. to 11:00 p.m.; and

(2) July 4: 8:00 a.m. to midnight.

**(3) Any other times allowed by special permit.**

(C) The discharge and exploding of fireworks within the municipality on any dates or times other than set out in this section shall be unlawful.

(D) The Mayor, in the event of extreme drought conditions, shall have the authority to make an emergency declaration banning the discharge of fireworks within the city. Said emergency declaration shall have the force of law and violations of the same shall be punishable as set forth in § 10.99 of this code.

(2002 Code, § 22-113) (Ord. 2002-13, passed 8-27-2002) Penalty, see § 10.99

**CHAPTER 114: JUNKYARDS**

## Section

- 114.01 Regulations
- 114.02 Owner's responsibility
- 114.03 Inspections
- 114.04 Nuisance
- 114.05 Records
- 114.06 Rodents

**Statutory reference:**

*Junkyards generally, see Neb. RS 39-2601 et seq.*

**§ 114.01 REGULATIONS.**

It shall be unlawful for any person to own, operate or hold open for public use any junkyard without first obtaining a license to do so from the city. Application for a license to own, operate or hold open for public use any junkyard shall be made in writing to the City Clerk and shall require such information and documents, or copies, the Council deems necessary to determine whether to grant or reject the application. Upon approval of the application, the City Clerk shall issue the license upon the payment of a fee set by resolution of the Council. The licensee shall then be subject to any occupation taxes, bond requirements and other rules and regulations the Council may determine to be beneficial to the city. Any such bond shall be set by resolution of the Council and will be conditioned upon the faithful observance of the provisions of this chapter. The bond shall be held for the benefit of any person who may suffer damage by the improper management of the junkyard.

(2002 Code, § 22-151) Penalty, see § 10.99

**§ 114.02 OWNER'S RESPONSIBILITY.**

(A) The owner of the premises upon which a junkyard is located shall be equally responsible with the operator, director or employees of the junkyard to see that the provisions of this chapter will not be violated.

(B) If the provisions of this chapter are violated, he or she shall be equally liable with the operator, director or employee for the violation of the provisions in this chapter.

(2002 Code, § 22-152)

**§ 114.03 INSPECTIONS.**

The city police, health officials and the Council shall have the power and authority to inspect and examine the premises on which a junkyard is located provided the inspection is at a reasonable time. Upon a finding that the owner, operator, director or employee has allowed a health or safety hazard to develop, the Council shall give written notice to the owner to remove the health hazard within 30 days. (2002 Code, § 22-153)

#### **§ 114.04 NUISANCE.**

Any junkyard that becomes a danger to the public health, or is not operated in the manner provided in this chapter, shall be deemed to be a public nuisance after a 30-day period of grace. The Council shall then request the City Attorney to prosecute the owner, operator, director or employee of the nuisance for violation of the provisions of this chapter.

(2002 Code, § 22-154)

***Statutory reference:***

*Authority to define and abate nuisances, see Neb. RS 18-132*

#### **§ 114.05 RECORDS.**

Any person who shall be engaged in the junk business shall keep a book which shall be legibly written in ink at the time of any purchase of goods or articles at the time they were received and the name, residence and description of the person doing the selling. The book, as well as the article purchased, shall be at all reasonable times subject to the inspection of the Council or any member of the city police.

(2002 Code, § 22-155) Penalty, see § 10.99

#### **§ 114.06 RODENTS.**

Any person who owns, operates, directs or is employed by a junkyard shall make a diligent and continuous effort to exterminate all rats, mice and other harmful rodents frequenting the junkyard.

(2002 Code, § 22-156) Penalty, see § 10.99

**CHAPTER 115: AMUSEMENTS AND ENTERTAINMENTS**

Section

*General Provisions*

- 115.01 Public entertainment; hours, supervision
- 115.02 Lottery established

*Bowling*

- 115.15 Definition
- 115.16 Regulations
- 115.17 Minors

*Bingo*

- 115.30 Regulations
- 115.31 Quarterly report
- 115.32 Incorporated regulation
- 115.33 Elections

- 115.99 Penalty

***Statutory reference:***

*Authority to regulate bowling alleys, see Neb. RS 16-226*

*Authority to regulate bowling alleys, billiard tables and other forms of amusement, see Neb. RS 16-226*

*State Bingo Act, see Neb. RS 9-201 et seq.*

**GENERAL PROVISIONS**

**§ 115.01 PUBLIC ENTERTAINMENT; HOURS, SUPERVISION.**

## Wayne - Business Regulations

(A) It shall be unlawful for any person to manage, sponsor or participate in any public entertainment later than the hour of ~~1:00~~ **2:00** a.m. or before the hour of 8:00 a.m. **PUBLIC ENTERTAINMENT** shall include music concerts, dances, rock festivals, masquerade or ball, play, comedy, entertainment, circus or carnival given or conducted for which a fee, contribution or collection for purposes of admission is charged. The term **PUBLIC ENTERTAINMENT** shall not be construed to include any such activity to which admission is limited strictly to persons expressly invited by the person, business, organization or society giving or holding such public entertainment, and which is not given or conducted designedly for profit or gain to such person, business, organization or society giving or conducting the entertainment. The provisions of this division (A) shall not apply to any public entertainment conducted under the supervision and direction of a department or division of the city or any college or school district within the city.

(2002 Code, § 10-1)

(B) The city police shall be permitted to enter any public entertainment event for the purpose of inspection at any time.

(2002 Code, § 10-2)

(Ord. 98-6, passed 5-12-1998) Penalty, see § 115.99

### § 115.02 LOTTERY ESTABLISHED.

Under the provisions of Neb. RS 9-625, a lottery is created and established; and the proceeds of the lottery will be used for community betterment purposes and the awarding of prizes to participants. The Council shall adopt, by resolution, the necessary rules and regulations for the conduct of the lotteries.

(2002 Code, § 10-31)

**Statutory reference:**

*Authority to establish lotteries, see Neb. RS 9-625*

## ~~BOWLING~~

### ~~§ 115.15 DEFINITION.~~

~~**BOWLING ALLEY** means any room, building or structure in which a game consisting of rolling a heavy ball down a wooden lane in an attempt to knock over wooden pins set upright at the opposite end of the lane is played, whether or not it is in connection with any other business.~~

~~(2002 Code, § 10-61)~~

### ~~§ 115.16 REGULATIONS.~~

~~— It shall be unlawful for any person to own, maintain or operate any bowling alley for profit without having first obtained a license from the city. Any person desiring a license to operate, maintain or own a bowling alley shall file a written application with the City Clerk. The application form shall contain such information and documents or copies as the Council deems necessary to determine whether to grant or reject the application. Upon determination that the granting of the license would be beneficial to the city, the Council shall immediately direct the City Clerk to issue the license to the applicant upon the payment of a fee set by resolution of the Council. The license shall be subject to revocation at any time for good and sufficient cause by the Council upon the issuance of proper notice and a hearing if the licensee should make such a request. Any person so licensed shall be subject to any bond, fees or other rules and regulations as may be set by resolution of the Council for the benefit of the city.  
(2002 Code, § 10-62) Penalty, see § 115.99~~

#### ~~§ 115.17 MINORS.~~

~~— (A) It shall be unlawful for any person operating any bowling alley to allow any minor to violate § 116.11(B) of this code.~~

~~— (B) It shall be unlawful for any person operating a bowling alley to allow or permit any disturbance of the peace, fighting, gambling, drinking of alcoholic beverages or drunkenness.  
(2002 Code, § 10-63) Penalty, see § 115.99~~

### *BINGO*

#### ~~§ 115.30 REGULATIONS.~~

~~— Games of bingo shall be conducted within the city in accordance with all laws of the city and the state if the game of bingo is played for or involves profit or gain. Any association duly licensed by the state to conduct the game of bingo shall obtain a written permit from the Council before commencing operation of the game. Application shall be made to the City Clerk for such permit. The application form shall contain such information and documents or copies as the Council deems necessary to determine whether to grant or reject the application. Upon the determination that granting the application would be proper, the Council shall immediately direct the City Clerk to issue the license to the applicant upon the payment of the currently required annual permit fee. The license shall be subject to revocation at any time for good cause. Any person so licensed shall be subject to any other fees, rules and regulations the Council may designate. All permits so issued will automatically expire on September 30 following its issuance or renewal. The fee for each renewal shall be set by the Council. The fee shall be credited to the General Fund. The permit shall be on display at any place where a game of bingo is conducted.  
(2002 Code, § 10-101)~~

~~Statutory reference:~~

~~— Annual permit fee, see Neb. RS 9-236~~

~~§ 115.31 QUARTERLY REPORT.~~

~~— Each association conducting the game of bingo shall submit a written quarterly report to the City Clerk covering the preceding calendar quarter on or before the thirtieth day of the immediately succeeding calendar quarter.~~

~~(2002 Code, § 10-102)~~

~~Statutory reference:~~

~~— Related provisions, see Neb. RS 9-239~~

~~§ 115.32 INCORPORATED REGULATION.~~

~~— All applicable state statutes as they now exist or may hereafter be amended shall be, and will constitute, a part of this subchapter as if repeated verbatim; and violation of any state statute will be a distinct and separate offense against the city as well as against the state.~~

~~(2002 Code, § 10-103) Penalty, see § 115.99~~

~~§ 115.33 ELECTIONS.~~

~~— No permit for conducting the game of bingo shall be issued by the city should a majority of the qualified electors of the city voting at the election at which the proposition was submitted determine that the game of bingo should not be conducted within the city unless the same quota of the qualified electors of the city shall again authorize the operation of the game.~~

~~(2002 Code, § 10-104)~~

~~§ 115.99 PENALTY.~~

~~— (A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code.~~

~~— (B) Violators of §§ 115.30 through 115.33 of this chapter shall be separately prosecuted by the city for each of such offenses and, if convicted, shall be deemed to be guilty of a misdemeanor and punished in accordance with § 10.99 of this code.~~

~~(2002 Code, § 10-103)~~

**CHAPTER 116: ALCOHOLIC BEVERAGES**

## Section

- 116.01 Definitions
- 116.02 License required
- 116.03 Location
- 116.04 Dwellings
- 116.05 License displayed
- 116.06 Classes of person to whom no license will be issued
- 116.07 Municipal examination
- 116.08 Liquor license renewal
- 116.09 Municipal powers and duties
- 116.10 Owner of premises, employer
- 116.11 Underage persons or incompetents
- 116.12 Credit sales
- 116.13 Spiking beer
- 116.14 Original package
- 116.15 Hours of sale
- 116.16 Sanitary conditions
- 116.17 Consumption in public places
- 116.18 Acquisition of alcoholic beverages
- 116.19 Inspections
- 116.20 Citizen complaints
- 116.21 Licensing standards
- 116.22 Notice and hearing
- 116.23 Catering permit
  
- 116.99 Penalty

**§ 116.01 DEFINITIONS.**

All words and phrases used in this chapter are to have the definitions applied as defined in the Liquor Control Act.  
(2002 Code, § 6-1)

***Statutory reference:***

*State Liquor Control Act definitions, see Neb. RS 53-103*

**§ 116.02 LICENSE REQUIRED.**

It shall be unlawful for any person to manufacture for sale, sell, keep for sale or to barter any alcoholic liquors within the city unless he or she shall have in full force and effect a license as provided by the Liquor Control Act.

(2002 Code, § 6-2) Penalty, see § 116.99

~~*Statutory reference:*~~

~~*Related provisions, see Neb. RS 53-168.06*~~

### § 116.03 LOCATION.

It shall be unlawful for any person to own, maintain, manage or hold open to the public any establishment for the purpose of selling at retail any alcoholic liquor within 150 feet of any church, school, hospital or home for aged or indigent persons or veterans, their wives or children; however, this prohibition shall not apply to any location within such distance when the establishment has been licensed by the State Liquor Control Commission at least two years, and to hotels offering restaurant service, regularly organized clubs or to restaurants where the selling of alcoholic liquors is not the principal business carried on, if the hotel, club or restaurant was licensed and in operation prior to 5-24-1935. No alcoholic liquor, other than beer, shall be sold for consumption on the premises within 300 feet from the campus of any college within the city.

(2002 Code, § 6-3) Penalty, see § 116.99

*Statutory reference:*

*Related provisions, see Neb. RS 53-177*

### § 116.04 DWELLINGS.

Except in the case of hotels and clubs, no alcoholic liquor shall be sold at retail upon any premises which has any access which leads from such premises to any other portion of the same building used for dwelling or lodging purposes, and which is permitted to be used by the public. Nothing in this section shall prevent any connection with such premises and such other portion of the building which is used only by the licensee, his or her family or personal guests.

(2002 Code, § 6-4) Penalty, see § 116.99

*Statutory reference:*

*Related provisions, see Neb. RS 53-178*

### § 116.05 LICENSE DISPLAYED.

Every licensee under the Liquor Control Act shall cause his or her license to be framed and hung in plain public view in a conspicuous place on the licensed premises.

(2002 Code, § 6-5) Penalty, see § 116.99

*Statutory reference:*

*Related provisions, see Neb. RS 53-148*

### § 116.06 CLASSES OF PERSON TO WHOM NO LICENSE WILL BE ISSUED.

No license of any kind under the Liquor Control Act shall be issued to the persons listed in Neb. RS 53-125.  
(2002 Code, § 6-6)

### **§ 116.07 MUNICIPAL EXAMINATION.**

(A) Any person desiring to obtain a license to sell alcoholic liquors at retail shall file with the Liquor Control Commission. The Commission shall then notify the City Clerk by registered or certified mail.

(B) The Council may examine or cause to be examined under oath any applicant; examine or cause to be examined the books and records of any such applicant; and hear testimony and take proof for its information in the performance of its duties. For the purpose of attaining any of the information desired, the Council may authorize its agent, the City Clerk or the City Attorney to act upon its behalf. The Council may conduct the examination and hold the hearing upon the receipt from the Commission of the notice and copy of the application. The Council shall fix a time and place at which a hearing will be held, at which time the Council shall receive evidence, under oath, either orally or by affidavit, from the applicant and any other person concerning the propriety of the issuance of such license.

(C) Notice of the time and place of such hearing shall be published in a legal newspaper in or of general circulation in the city one time not less than seven, nor more than 14, days before the time of the hearing. Such notice shall include, but is not limited to, a statement that all persons desiring to give evidence before the Council in support of or in protest against the issuance of such license may do so at the time of the hearing. Such hearing shall be held not more than 45 days after the receipt of notice from the Commission.

(2002 Code, § 6-7)

***Statutory reference:***

*Related provisions, see Neb. RS 53-126*

### **§ 116.08 LIQUOR LICENSE RENEWAL.**

(A) (1) Retail liquor or bottle club licenses issued by the Liquor Control Commission and outstanding may be automatically renewed in the absence of a request by the Council to require the licensee to issue an application for renewal. Any licensed retail or bottle club establishment located in an area which is annexed to the city shall file a formal application for a license; and, while such application is pending, the licensee shall be authorized to continue all license privileges pursuant to this chapter until the original license expires, is canceled or is revoked. If such license expires within 60 days following the annexation date of such area, the license may be renewed by order of the Commission for not more than one year. The City Clerk, upon notice from the Commission, between January 10 and January 30 of each year, shall cause to be published in a legal newspaper in or of general circulation in the city one time, a notice in the form prescribed by law of the right of automatic renewal of each retail liquor and beer license within the city.

(2) Class C license renewal notices shall be published between the dates of July 10 and July 30 of each year.

~~(3) The City Clerk shall then file with the Commission proof of publication of such notice on or before February 10 of each year or August 10 of each year for Class C licenses. If written protests are filed by three or more residents of the city against the license renewal, the City Clerk shall deliver the protests to the Council, who shall thereupon proceed to notify the Commission that it is to require the licensee to submit an application.~~

(B) Upon the conclusion of any hearing required by this section, the Council may request a licensee to submit an application.

(2002 Code, § 6-8)

*Statutory reference:*

*Related provisions, see Neb. RS 53-135, 53-135.01*

## § 116.09 MUNICIPAL POWERS AND DUTIES.

(A) The Council is authorized to regulate by ordinance, not inconsistent with the provisions of the Liquor Control Act, the business of all retail and bottle club licensees carried on within the corporate limits.

~~(B) The Council shall further have the power and duties with respect to licensed retailers of alcoholic beverages to:~~

~~(1) Revoke for cause retail or bottle club licenses to sell or dispense alcoholic liquors issued to persons for premises within its jurisdiction subject to the right of appeal to the Liquor Control Commission;~~

~~(2) Enter or to authorize any law enforcement officer to enter at any time upon any premises licensed by the state to determine whether any of the provisions of the city's laws or the laws of the state are being violated;~~

~~(3) Receive signed complaints from any citizens within its jurisdiction that any of the city's laws or laws of the state are being violated, and to act upon such complaints in the manner provided;~~

~~(4) Revoke on its own motion any license if, upon the same notice and hearing as provided in § 116.20 of this chapter, it determines that the licensee has violated any of the provisions of the Liquor Control Act or any valid and subsisting ordinance or regulation duly enacted relating to alcoholic liquors; and~~

~~(5) Collect for the benefit of the state and the city all license fees and occupation taxes as prescribed by law.~~

(2002 Code, § 6-9)

*Statutory reference:*

*Related provisions, see Neb. RS 53-134*

**§ 116.10 OWNER OF PREMISES, EMPLOYER.**

(A) The owner of any premises used for the sale at retail of alcoholic beverages shall be deemed guilty of a violation of this chapter to the same extent as the licensee if the owner shall permit the licensee to use the licensed premises in violation of any section of this code or state law.  
(2002 Code, § 6-10)

(B) The employer of any officer, director, manager or employees working in a retail liquor establishment shall be held to be liable and guilty of any act of omission or violation of any law or ordinance; and each such act or omission shall be deemed and held to be the act of the employer and will be punishable in the same manner as if the act or omission had been committed by him or her personally.

(2002 Code, § 6-11)

Penalty, see § 116.99

**Statutory reference:**

*Related provisions, see Neb. RS 53-1,101, 53-1,102*

**§ 116.11 UNDERAGE PERSONS OR INCOMPETENTS.**

(A) It shall be unlawful for any person to sell, give away, dispose of, exchange, permit the sale of or make a gift of any alcoholic liquors, or to procure any such alcoholic liquors to or for any underage person, or to any person who is mentally incompetent.  
(2002 Code, § 6-12)

(B) (1) It shall be unlawful for any patron under the age of 21 years to enter upon or remain upon, any licensed premises or place where alcoholic liquors are sold or consumed unless accompanied by a parent or guardian. It shall be unlawful for any licensee or employee of any licensed premises or place where alcoholic liquors are sold or consumed to allow or permit any patron under the age of 21 years to enter upon or remain upon any licensed premises or place where alcoholic liquors are sold and consumed unless accompanied by a parent or guardian. The provisions of this division (B)(1) shall not apply to restaurants, private clubs or bowling alleys.

(2) Exception: if the licensed establishment is hosting regularly scheduled league activities, no patron under the age of 21 shall be allowed to enter upon or remain upon any licensed premises after 10:30 p.m.

(3) In the case of a restaurant, private club or bowling alley which has separate dining and bar areas, it shall be unlawful for persons under the age of 21 years to enter the bar area unless accompanied by a parent or guardian.

(4) It shall be unlawful for any person under the age of 21 years to falsify any identification for the purpose of violating the provisions of this division (B).

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(5) Every licensee of a place subject to this division (B) where alcoholic liquor is sold and consumed shall display at all times, at all entrances, a printed card **in compliance with Section 53-180.04** ~~with a minimum height of 12 inches and a width of 14 inches, with each letter to be a minimum of one inch in height, which shall read as follows:~~

~~**WARNING TO PERSONS UNDER AGE 21  
YOU ARE SUBJECT TO A FINE UP TO \$500 FOR ENTERING UPON THESE PREMISES  
UNLESS ACCOMPANIED BY A PARENT OR GUARDIAN**~~

(6) In the case of a restaurant, private club or bowling alley having a separate dining and bar area, such notice shall be displayed at the entrance to the separate bar area.

(7) The term **RESTAURANT**, as used in this division (B), is defined as any public establishment kept, used, maintained, advertised and held out to the public as a place where meals are served, and where meals are actually and regularly served, such place being provided with adequate and sanitary kitchen and dining room equipment and capacity and having employed a sufficient number of employees to prepare, cook and serve food for its customers.

(2002 Code, § 6-16)

(C) It shall be unlawful for any person to hire a person regardless of sex under the age of 19 years to serve or dispense alcoholic liquors, including beer, to the licensee's customers.

(2002 Code, § 6-20)

(Ord. 2005-31, passed 11-29-2005) Penalty, see § 116.99

**Statutory reference:**

*Similar provisions, see Neb. RS 53-168,06, 53-180, 53-180.04 (subsection 5)*

### § 116.12 CREDIT SALES.

No person shall sell or furnish alcoholic liquor at retail to any person for credit of any kind, barter or services rendered; however, nothing contained in this section shall be construed to prevent any club holding a Class C license from permitting checks or statements for alcoholic liquor to be signed by members, or guests of members, and charged to the accounts of the members or guests in accordance with the bylaws of any such club; and nothing in this section shall be construed to prevent any hotel or restaurant holding a retail alcoholic beverage license from permitting checks or statements for liquor to be signed by regular guests residing in the hotel, and charged to the accounts of such guests.

(2002 Code, § 6-13) Penalty, see § 116.99

**Statutory reference:**

*Related provisions, see Neb. RS 53-183*

### § 116.13 SPIKING BEER.

It shall be unlawful for any person who owns, manages or leases any premises in which the sale of alcoholic beverages is licensed to serve or offer for sale any beer to which there has been added any alcohol, or permit any person to add alcohol to any beer on the licensed premises of such licensee.

(2002 Code, § 6-14) Penalty, see § 116.99

**Statutory reference:**

*Related provisions, see Neb. RS 53-174*

**§ 116.14 ORIGINAL PACKAGE.**

It shall be unlawful for any person who owns, manages or leases any premises in which the sale of alcoholic beverages is licensed to have in his or her possession for sale at retail any alcoholic liquors contained in bottles, casks or other containers, except in the original package. Nothing in this section shall prohibit the refilling of original packages of alcoholic liquor for strictly private use and not for resale.

(2002 Code, § 6-15) Penalty, see § 116.99

**Statutory reference:**

*Related provisions, see Neb. RS 53-184*

**§ 116.15 HOURS OF SALE.**

(A) It shall be unlawful for any licensed person or his or her agents to sell any alcoholic beverages within the city, except during the following hours:

<i>Hours of Sale</i>	
<b>Alcoholic Liquors (Except Beer and Wine):</b>	
Secular days:	
Off sale	6:00 a.m. to 2:00 a.m.
On sale	6:00 a.m. to 2:00 a.m.
Sundays:	
Off sale	12:00 noon to 2:00 a.m.
On sale	12:00 noon to 2:00 a.m.
<b>Beer and Wine:</b>	
Secular days:	
Off sale	6:00 a.m. to 2:00 a.m.
On sale	6:00 a.m. to 2:00 a.m.
Sundays:	
Off sale	6:00 a.m. to 2:00 a.m.
On sale	6:00 a.m. to 2:00 a.m.

(B) No person shall consume any alcoholic beverages on licensed premises for a period of time longer than 15 minutes after the time fixed in this section for stopping the sale of alcoholic beverages on the premises. For the purposes of this section, the term **ON SALE** shall be defined as alcoholic

beverages sold by the drink for consumption on the premises of the licensed establishment. The term **OFF SALE** shall be defined as alcoholic beverages sold at retail in the original container for consumption off the premises of the licensed establishment.

(C) Nothing in this section shall be construed to prohibit licensed premises from being open for other business on days and hours during which the sale or dispensing of alcoholic beverages is prohibited by this section.

(2002 Code, § 6-18) (Ord. 2013-14, passed 3-5-2013) Penalty, see § 116.99

**Statutory reference:**

*Related provisions, see Neb. RS 53-179*

### **§ 116.16 SANITARY CONDITIONS.**

It shall be unlawful to open for public use any retail liquor establishment that is not in a clean and sanitary condition. Toilet facilities shall be adequate and convenient for customers and patrons, and the licensed premises shall be subject to any health inspections the Council or the police may make or cause to be made. All applications for liquor licenses shall be viewed in part from the standpoint of the sanitary conditions, and a report concerning the sanitary conditions shall be made at all hearings concerning the application for or renewal of a liquor license.

(2002 Code, § 6-19) Penalty, see § 116.99

### **§ 116.17 CONSUMPTION IN PUBLIC PLACES.**

It shall be unlawful for any person to consume alcoholic beverages within the corporate limits upon the public ways and property, including inside vehicles while upon the public ways and property, **unless authorized by the governing body having jurisdiction over such property.** It shall further be unlawful for any person to consume alcoholic beverages within any other public business that is not a licensed liquor establishment. This section is not intended to prohibit consumption of alcohol in a business which is closed to the public at the time of consumption and which consumption is otherwise lawful.

(2002 Code, § 6-21) Penalty, see § 116.99

### **§ 116.18 ACQUISITION OF ALCOHOLIC BEVERAGES.**

It shall be unlawful for any person to have possession of any alcoholic liquors which shall have been acquired otherwise than from a licensee duly licensed to sell such beverages to such person under the provisions of the State Liquor Control Act; however:

(A) Nothing in this section shall prevent the possession of alcoholic liquor for the personal use of the possessor, his or her family and guests, as long as the quantity of alcoholic liquor transported, imported, brought, shipped or caused to be transported, imported, brought or shipped into the state for personal use does not exceed one gallon at any one time or in excess of two gallons in any one calendar month, nor prevent the making of wine, cider or other alcoholic liquor by a person from fruits, vegetables or grains, or their products, by simple fermentation and without distillation, if it is made

solely for the use of the maker, his or her family and his or her guests;

(B) Nothing in this section shall prevent any duly licensed practicing physician or dentist from possessing or using alcoholic liquor in the strict practice of his or her profession, or any hospital or institution caring for the sick and diseased persons from possessing any alcoholic liquor for the treatment of bona fide patients of such hospital or other institution;

(C) Any drugstore employing a licensed pharmacist may possess and use alcoholic liquors in the compounding of prescriptions of duly licensed physicians;

(D) The possession and dispensation of wine by an authorized representative of any church for the purpose of conducting any bona fide rite or religious ceremony conducted by such church shall not be prohibited by this section;

(E) Persons who are 16 years old or older may carry beer from grocery stores when they are accompanied by a person not a minor; handle beer containers and beer in the course of their employment in grocery stores; and remove and dispose of alcoholic liquor containers for the convenience of their employer and customers in the course of their employment as waiters, waitresses or busboys by any restaurant, club, hotel or similar organization; and

(F) Persons who are 19 years old or older may serve or sell alcoholic liquor in the course of their employment.

(2002 Code, § 6-22) Penalty, see § 116.99

**Statutory reference:**

*Related provisions, see Neb. RS 53-168.06, 53-175*

## § 116.19 INSPECTIONS.

It shall be the duty of the Council to cause frequent inspections to be made on the premises of all retail ~~and bottle-club~~ licensees. If it is found that any such licensee is violating any provision of the Liquor Control Act or regulations of the Liquor Control Commission, or is failing to observe in good faith the purposes of the Act, the license may be suspended, canceled or revoked after the licensee has been given an opportunity to be heard by the Council.

(2002 Code, § 6-23)

**Statutory reference:**

*Related provisions, see Neb. RS 53-116.01*

## § 116.20 CITIZEN COMPLAINTS.

Any five residents of the city shall have the right to file a complaint with the Council stating that any retail ~~or bottle-club~~ licensee subject to the jurisdiction of the Council has been or is violating any provision of the Liquor Control Act or the rules or regulations issued pursuant to the Act. Such complaint shall be in writing in the form prescribed by the Council and shall be signed and sworn by the parties complaining. The complaint shall state the particular provision, rule or regulation believed to have been violated and the facts in detail upon which belief is based. If the Council is satisfied that

the complaint substantially charges a violation and that from the fact alleged there is reasonable cause for such belief, it shall set the matter for hearing within ten days from the date of the filing of the complaint and shall serve notice upon the licensee of the time and place of such hearing and of the particular charge in the complaint. The complaint must in all cases be disposed of by the Council within 30 days from the date the complaint was filed by resolution of the Council. The resolution shall be deemed the final order for purposes of appeal to the Liquor Control Commission as provided by law.

(2002 Code, § 6-24)

**Statutory reference:**

*Related provisions, see Neb. RS 53-134.04*

**§ 116.21 LICENSING STANDARDS.**

(A) When an application for a retail liquor license for the upgrading of a license to sell alcoholic liquor or for the expansion or change in location of the premises is received pursuant to Neb. RS 53-134, the Council shall hold a hearing upon such application in accordance with the provisions of that statute.

(B) At the hearing on such application, the Council shall only consider the requirements of the Liquor Control Act and the following criteria:

- (1) The adequacy of existing law enforcement resources and services in the area;
- (2) The recommendation of the Police Department or any other law enforcement agency;
- (3) Existing motor vehicle and pedestrian traffic flow in the vicinity of the proposed licensed premises, potential traffic and parking problems and the proximity and availability of on-street and off-street parking;
- (4) Zoning restrictions and the Council's zoning and land use policies;
- (5) Sanitation or sanitary conditions on or about the proposed licensed premises;
- (6) The existence of a citizen's protest and similar evidence in support of or in opposition to the application;
- (7) The existing population and projected growth within the jurisdiction of the Council and within the area to be served;
- (8) The existing liquor licenses, the class of each such license and the distance and times of travel between establishments issued such licenses;
- (9) Whether the proposed license would be compatible with the neighborhood or community where the proposed premises are located;
- (10) Whether the type of business or activity proposed to be operated or presently operated in

conjunction with the proposed license is and will be consistent with the public interest as declared in Neb. RS 53-101.01;

(11) Whether the applicant can ensure that all alcoholic beverages, including beer and wine, will be handled by persons in accordance with Neb. RS 53-102;

(12) Whether the applicant has taken every precaution to protect against the possibility of shoplifting of alcoholic liquor, which alcoholic liquor shall be displayed and kept in and sold from an area which is reasonably secured;

(13) Whether the applicant is fit, willing and able to properly provide the service proposed in conformance with all provisions and requirements of and rules and regulations adopted and promulgated pursuant to the Liquor Control Act;

(14) Whether the applicant has demonstrated that the type of management and control exercised over the licensed premises will be sufficient to ensure that the licensee can conform to all the provisions and requirements of and rules and regulations adopted and promulgated pursuant to the Liquor Control Act;

(15) The background information of the applicant established by information contained in the public records of the Liquor Control Commission and investigations conducted by law enforcement agency, including, but not limited to, the Police Department;

(16) Past evidence of discrimination involving the applicant as evidenced by findings of fact before any administrative board or agency of the city, any other governmental board or agency of the city, any other governmental unit or any court of law;

(17) Whether the applicant or the applicant's representatives suppressed any fact or provided any inaccurate information to the Liquor Control Commission or the city or the employees of the Liquor Control Commission or the city in regard to the license application or liquor investigations; the applicant shall be required to cooperate in providing a full disclosure to the investigating agents of the city;

(18) Proximity of and impact on schools, hospitals, libraries, parks and other public institutions;

(19) Whether activities proposed to be conducted on the licensed premises or in adjacent related outdoor areas will create unreasonable noise or disturbance; and

(20) Compliance with state laws, liquor rules and regulations, and municipal ordinances and regulations and whether or not the applicant has ever forfeited bond to appear in court to answer charges of having committed a felony or charges of having violated any law or ordinance enacted in the interest of good morals and decency or has been convicted of violating or has forfeited bond to appear in court and answer charges for violating any law or ordinance relating to alcoholic liquor.

(2002 Code, § 6-25)

**Statutory reference:**

*Related provisions, see Neb. RS 53-134*

**§ 116.22 NOTICE AND HEARING.**

(A) *Burden of proof.* It shall be the applicant's duty to produce evidence pertaining to the designated criteria prescribed in § 116.21 of this chapter. The burden of proof and persuasion shall be on the party filing the application. When applicable for purposes of this section, the term **APPLICANT** shall be synonymous with **LICENSEE**.

(B) *Consideration of application.* The Council shall, after the hearing provided in this section, approve the application or deny the license within 45 days after receiving a copy of the application from the Liquor Control Commission. If the Council denies the retail or bottle club license within such period, such denial shall be final and shall be subject to review as provided by state statutes. The Council shall issue the final order of denial of the license to the licensee in writing, and deliver or mail a copy to the Liquor Control Commission within ten days from the date the application was denied. If the Council approves an application within such period, the Council shall, within ten days of the date the application was approved, notify the Liquor Control Commission by mail or delivery.

(C) *Notice.* Notice of a hearing held pursuant to § 116.07 of this chapter shall be given to the applicant by the City Clerk and shall contain the date, time and location of the hearing. Two or more proceedings which are legally or factually related may be heard and considered together unless any party to the proceedings makes a showing sufficient to satisfy the Council that prejudice would result.

(D) *Procedure.* Hearings will be informal and conducted by the Mayor, City Attorney or a Council-authorized appointed agent. The intent is an inquiry into the facts, not an adversarial action. Each witness may present testimony in narrative fashion or by question and answer. The Council or the applicant may order a transcript at the expense of the applicant. The Council and its representatives shall not be bound by the strict rules of evidence and shall have full authority to control the procedures of the hearing, including the admission or exclusion of testimony or other evidence. The Council may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent individuals in the conduct of their affairs. The Hearing Officer may limit testimony where it appears incompetent, irrelevant or unduly repetitious. If there is opposition to any application and such opposition desires the opportunity to present arguments and to cross-examine the applicant and any witnesses in favor of such application, each group shall choose a spokesperson to perform such function, who shall notify the Hearing Officer of such representation prior to the start of the hearing. The Hearing Officer may, at his or her discretion, allow more than one such spokesperson to appear. All witnesses may present testimony in narrative fashion or by question and answer.

(E) *Order of proceedings.* The order of proceedings shall be as follows:

- (1) Exhibits will be marked in advance by the City Clerk and presented to the City Attorney during the presentation;
- (2) Presentation of evidence and witnesses by applicant;
- (3) Testimony of any other person in favor of such proposed license;

(4) Examination of applicant, witnesses or citizens by the City Attorney, City Administrator, any member of the Council, Mayor or any duly appointed agent;

(5) Cross examination of the applicant, witnesses or citizens by the spokesperson for the opposition, if any;

(6) Presentation of evidence and witnesses by the opposition;

(7) Testimony of any other persons in opposition to such proposed license;

(8) Presentation of evidence by the city and law enforcement personnel;

(9) Cross examination by the applicant;

(10) Rebuttal evidence by both parties, and by the City Administrator, any member of the Council or a duly appointed agent;

(11) Summation by the applicant and opposition spokesperson, if any; and

(12) Any member of the Council, the City Administrator and the City Attorney may question all witnesses, call additional witnesses or request additional information.

(F) *Action.* After such hearing, the Council shall cause to be spread at large in the minute record of its proceedings a resolution approving or denying the issuance or the renewal of such license. Any resolution denying or failing to renew an application for license rendered by the Council shall be in writing or stated in the record, and shall be accompanied by findings. The findings shall consist of concise statements of the conclusions upon each contested issue. The applicant or licensee shall be notified of the decision in person or by mail. A copy of the decision and order and accompanying findings shall be delivered or mailed upon request to the applicant or licensee. The City Clerk shall thereupon mail or deliver to the Liquor Control Commission a copy of the resolution.

(2002 Code, § 6-26)

***Statutory reference:***

*Related provisions, see Neb. RS 53-134*

### **§ 116.23 CATERING PERMIT.**

(A) The holder of a license issued under Neb. RS 53-124(5)(C), (5)(D) or (5)(E) may obtain an annual catering permit as prescribed in this section. The catering permit shall be issued for the same period as the license held by the permittee and may be renewed in the same manner as the license held by the permittee.

(B) Any person desiring to obtain a catering permit shall file with the Liquor Control Commission. The application for catering permit shall be mailed by the Commission to the City Clerk. During the period of 45 days from the date of receiving such application from the Commission, the Council shall comply with § 116.07 of this chapter and shall make and submit to the Commission recommendations relative to the granting or refusal to grant such permit to the applicant. The

recommendation of the Council shall be binding upon the Commission.

(C) Any decision of the Council and Commission to deny the issuance of a permit may be appealed to the District Court of the county by the applicant for permit. When applicable, Neb. RS 53-1,116 shall govern all appeals.

(D) The Council, with respect to permittees, may cancel a permit for cause for the remainder of the period for which the permit is issued. Any person whose permit is canceled may appeal to the District Court of the county.

(2002 Code, § 6-27)

***Statutory reference:***

*Related provisions, see Neb. RS 53-124.12*

**§ 116.99 PENALTY.**

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code.

(B) No person under 21 years of age may transport, knowingly possess or have under his or her control beer or other alcoholic liquor in or transported by any motor vehicle. Any person found in violation of any provision of this chapter shall be punished in accordance with § 10.99 of this code. In lieu of the foregoing penalties, the court may sentence a person to work on public streets, parks or other public property for a period of not exceeding ten working days under the supervision of the Chief of Police. Upon written certification by the Chief of Police of the performance of such work, the sentence shall be deemed to be satisfied.

(2002 Code, § 6-17)

**CHAPTER 117: MOVING BUILDINGS**

## Section

- 117.01 Permit required
- 117.02 Permit fee; bond
- 117.03 Interference with utilities
- 117.04 No general permit

**§ 117.01 PERMIT REQUIRED.**

(A) It shall be unlawful for any person to move, or cause to have moved, any permanent, previously used or otherwise occupied structure greater than ~~150~~ **50** square feet including, but not limited to, garages and storage type structures, along or across any road, street or alley, into or within the jurisdiction of the city, except as provided in this chapter. Any person desiring to move any permanent structure, previously-used structure or otherwise occupied structure, including garages and storage type structures, upon, along or across any road, street or alley of the jurisdiction of the city shall make written application to the Building Inspector for a permit to do so.

(B) This section shall not pertain to new designed modular or mobile type structures moved into and/or through the jurisdiction of the city. Buildings and/or structures of ~~150~~ **50** square feet or less, determined by exterior measurements of the structure, shall be exempted from this section.

(C) Prior to issuance of a moving permit, the applicant shall provide and state the following to the City Building Inspector:

- (1) A vermin-free certification from a reputable exterminating firm;
- (2) Description of the lot on which the structure is located within the jurisdiction of the city;
- (3) Proof of ownership of the structure;
- (4) A statement of verification that all taxes have been paid at the structure's current location;
- (5) Proposed route of travel of the structure;
- (6) **A certified engineer's statement that the movement of the structure will in no way have adverse effects upon any road surface or bridge on or along the proposed route within the city jurisdiction; (This section we want to ask Council if they want to leave in or take out.)**
- (7) Date of the proposed move;

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- (8) Proof that the structure will be moved by a licensed and bonded contract mover;
- (9) Proof of liability insurance, provided by the moving contractor, in the amount of \$1,000,000;
- (10) Estimate of the time required to complete the move;
- (11) Written and signed statement indicating the intended use of the structure at the new site;
- (12) If within the jurisdiction, a signed statement, attesting that all utilities will be properly disconnected and abandoned as per this code to include, but not be limited to, electrical connections, shutting off the water and properly plugging and sealing all sewer lines back of curb or at right-of-way;
- (13) Legal description of the lot the structure will be placed upon;
- (14) To-scale drawing depicting the exact location of the structure on the new site or lot, if within the jurisdiction of the city;
- (15) A cost of repair, remodel or construction estimate provided by a reputable and practicing construction firm, recognized by the city as an active firm engaged in repair, remodel or new construction;
- (16) A certified copy of any and all recorded covenants in place at the new lot location;
- (17) An approved building permit, from the city, meeting all the requirements of the adopted Electrical and ~~Building Codes~~ **International Property Maintenance Code in effect at the time of the application in force at the time of application;**
- ~~(18) A complete set of blueprint drawings provided as per current Building Code requirements, that show compliance with all Building Codes and covenants (if applicable) that are in force at the time of application;~~
- (19) Copies of approved moving applications from all counties of jurisdiction affected by the move and/or the state, is required; and
- (20) A statement from all utility entities that the movement of the structure is acceptable or that a representative of that entity will be present during the move and that the applicant agrees to pay the cost of monitoring and all subsequent related costs pursuant thereto, including, but not limited to, Electrical, Telephone, Gas, Water and the City Street Department.

(D) Prior to issuance of a moving permit, the Building Inspector shall inspect the structure at the present site or location to determine structural soundness of the building to be moved. If evidence of vermin infestation is noted, the applicant shall remove or cause to have removed adjacent interior wall coverings of all vermin-infested areas of the structure, to allow the Building Inspector to determine the extent of damage. A reinspection fee shall be charged as per the schedule outlined in the current Building Code.

(E) (1) Exception: used, previously erected or occupied modular or mobile homes seeking approval to move into the city shall meet all of the above conditions, except divisions (C)(1), (C)(2), (C)(6), (C)(8), (C)(9), (C)(12), (C)(14), (C)(15), (C)(16), (C)(17), (C)(18) and (C)(20) above. Upon inspection, the Building Official may require the owner to comply to any or all of the expected divisions listed above, where justified by inspection results. Appeal of the Building Official's decision shall be presented in writing to the Building Official's office, requesting an appeal to the specific divisions above not accepted by the Building Official, a minimum of ten days prior to the next regularly scheduled City Council meeting.

(2) In addition to the above, once located onsite on a lot in the city, the modular or mobile home owner shall:

(a) Close/skirt or underpin the area directly under the unit to the ground, including the tongue or towing apparatus if non-detachable;

(b) Construct or otherwise provide a landing at all exterior doors a minimum of three feet in any direction;

(c) Construct or otherwise provide a set of steps that meet current Building Code regulations;

(d) Where indicated by current Building Code, construct a guard and handrails for the above landing and steps;

(e) Install at least one egress window in all bedrooms, per current Building Code requirements;

(f) Install GFCI receptacles at all appropriate locations per current NEC requirements;

(g) Install minimally battery operated smoke detectors per current Building Code; and

(h) Meet all requirements as set forth in § 152.140 of this code, including tongue or towing mechanism removal.

(3) Upon completion of all of the required and stipulated conditions above, the Building Official shall issue an occupancy certificate prior to the owner or tenants occupying the structure. The owner shall not occupy structure until authorized by the Building Official.

**(F) Any of the above provisions may be waived upon showing good cause and upon approval by the City Council.**

(2002 Code, § 18-301) (Ord. 98-20, passed 12-8-1998; Ord. 2000-11, passed 7-25-2000; Ord. 2005-10, passed 5-10-2005) Penalty, see § 10.99

### **§ 117.02 PERMIT FEE; BOND.**

(A) The application for a moving permit as provided for in § 117.01 of this chapter shall be accompanied by the required permit fee, which shall be paid over by the Building Inspector to the City Treasurer, who shall credit the fee to the General Fund.

(B) This section shall not pertain to new designed modular or mobile type structures moved into and/or through the jurisdiction of the city. Buildings and/or structures of 150 square feet or less, determined by exterior measurements of the structure, shall be exempt from this section.

(C) (1) Before the city grants such permits, the applicant shall provide a good and sufficient corporate surety bond or cash bond in the amount determined as follows: \$10 per square foot of the ground floor level of the blueprinted, relocated structure, conditioned that the applicant pay any and all damages which may be sustained by the city, individuals or corporations in connection with such moving, and that all city utilities shall be properly disconnected. The surety or cash bond shall be held by the city until such time as the applicant receives a certificate of occupancy from the jurisdiction according to Building Codes in force at the time of application. Failure to complete or comply with Building Codes in force at the time of application shall give cause for the Council to declare the structure a nuisance. Upon declaration or a nuisance, the Council may require the applicant to forfeit that amount of the bond required to complete the project as blueprinted or cause the structure to be razed by hiring a competent contractor of choice determined by the city.

(2) Additional costs, in excess of the bond amount, to raze or complete the structure as blueprinted shall be levied against the property as judgment against such property as set forth § 150.30 of this code.

(D) Exception: Modular or mobile home units qualifying under § 117.01 of this chapter shall pay current fee requirements upon application for a moving permit. In addition to the fee, applicant shall post a cash bond or certified check made payable to the city in the amount of \$300. The cash/check shall be held by the city until an occupancy permit is issued by the Building Official.

(2002 Code, § 18-302) (Ord. 2000-12, passed 7-25-2000; Ord. 2005-10, passed 5-10-2005)

### **§ 117.03 INTERFERENCE WITH UTILITIES.**

(A) Whenever it shall be necessary for any house mover in moving a building to interfere with any gas mains or telephone or telegraph poles or wires, the house mover shall make satisfactory arrangements with such companies before moving the building.

(B) Whenever the moving of any building necessitates interference with any water main, sewer main, pole or wire that forms a part of the electric distribution system, sewer system or water system of the city, the Building Inspector shall notify the proper city officer or employees to the end that the property of the city may be adequately protected.

(2002 Code, § 18-303)

**§ 117.04 NO GENERAL PERMIT.**

There shall be no permit issued or general permission given to anyone to move buildings at will or generally within the city.

(2002 Code, § 18-304)

